



## PLANNING COMMISSION STAFF REPORT FEBRUARY 23, 2006

<b>Project:</b>	<b>Item 1. ST. JOSEPH'S CHURCH-</b> (PLN2003-00165)
<b>Proposal:</b>	To consider a Planned District Major Amendment, Preliminary Grading Plan and a Private Street application for the construction of a new 18,077 square foot (850-seat) church. The project would include the demolition of the existing 3,890 square foot rectory, retention of a Primary Historic Resource (PHR) known as the Carriage House, the realignment of St. Joseph's Terrace (also known as Monticello Terrace) a private roadway that traverses the site and the construction of a new 4,375 square foot rectory (only the footprint was evaluated).
<b>Recommendation:</b>	To recommend approval of the Planned District Major Amendment, Preliminary Grading Plan and Private Street application subject to Findings and Conditions of Approval.
<b>Location:</b>	43148 Mission Boulevard in the Mission San Jose planning area. APN's 51304012002; 513040107200, 513040102003 (See aerial)
<b>Area:</b>	18,077 square foot proposed building on a 13.27-acre lot
<b>People:</b>	Tony Mirenda, Agent of Applicant, Ernie Yamane, Steinberg Architects Nancy Minicucci, Staff Planner (510) 494-4476, <a href="mailto:nminicucci@ci.fremont.ca.us">nminicucci@ci.fremont.ca.us</a>
<b>Environmental Review:</b>	A Draft Mitigated Negative Declaration was circulated for this project.
<b>General Plan:</b>	Existing: Low Density Residential 2-3.5 du /acre (Institutional allowed); Historic Overlay, Primary Historic Resource
<b>Zoning:</b>	Existing: Planned District (P – Mission San Jose East – P-2001-34) with Historic Overlay (H) and Hillside Combining District (H-I), Community Commercial ( <i>Underlying designation per the Principles</i> ), small portion along creek is designated as Floodway Combining District (F-W)

### EXECUTIVE SUMMARY:

The applicant is requesting approval of Planned District Major Amendment, Preliminary Grading Plan and a Private Street application to allow for the demolition of the existing 3,890 square foot rectory (constructed in the 1970's) and two-car garage and the construction of a new 18,077 square foot church in its place. In addition to the new church, the applicant proposes to construct a new parking lot, a plaza and pedestrian walkway, retain the existing Carriage House, introduce new vehicle circulation and install new landscaping. A meditation garden at the rear of the Church and the footprint of a new rectory is also proposed. The project site is located in one of the most culturally and historically diverse properties in the Mission San Jose Historic Overlay District. On February 2, 2006, the Historical Architectural Review Board voted to recommend approval to City Council with added conditions (5-0-0). Staff supports the approval of HARB's conditions.



Figure 1: Aerial Map (2002) of Project Site and Surrounding Area.



[1 inch = 375 feet]

**SURROUNDING LAND USES:**

- North: Mission Creek; Residential
- South: The Mission San Jose / Institutional / Cemetery
- East: Dominican Sisters complex / Institutional
- West: Mission Boulevard / commercial

## **BACKGROUND AND PREVIOUS ACTIONS:**

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On February 2, 2006, the Historical Architectural Review Board considered the application and voted unanimously to recommend approval to City Council. There was a great deal of discussion during the HARB meeting with regards to the proposed elliptical shape of the church, its relationship with the Mission and whether or not it was indeed subordinate as required by the Mission San Jose Design Guidelines. Some HARB members expressed concern over the proposed massing and roof height and asked that the applicant pursue additional modifications to the proposed building color as well as the proposed roof material and color so that the proposed church would not compete with the Mission. HARB members were also interested in the programming of the Carriage House and voiced concern that the applicant may continue to let the Carriage House become dilapidated because there were no plans for rehabilitation. A discussion also ensued regarding the naming of the new proposed private street to Monticello Terrace, educating the public about the natural resources on the project site through a tree signage program and providing updates to HARB regarding the riparian corridor enhancement and monitoring plan. A draft copy of the minutes from the February 2, 2006 HARB meeting is provided in the Commissioner's packets.

The following conditions were recommended by HARB and have been added to the proposed conditions of approval for City Council review:

1. An effort be made to further subdue the proposed church by using either different color or material for the roof, as well as use a subdued color for the walls in comparison with the mission.
2. A plan be developed for signage to be used throughout the site in recognition of the landscape to identify the significance of the plants and to provide an opportunity for the community to understand the historic significance of the plants.
3. An update be provided, as an informational item, to HARB concerning the riparian corridor enhancement and monitoring plan.
4. Updates be provided to the Board as the project moved forward.

*Other actions regarding the project site and overall Mission San Jose Planned District (East) site:*

On March 6, 2001, the City Council approved the Mission San Jose (East) Planned District in response to the potential for development and change in the relatively underdeveloped area surrounding the historic Mission San Jose complex. The adopted boundary area of approximately 44 acres was defined along the east side of the 3200-4300 blocks of Mission Boulevard, between Mission Creek (also known as Mill Creek) on the north and the Ohlone campus on the south and extending westerly an average of about 1700 feet. The area does not include the 13-acre project area known as Mission Tierra and 8 acres of property off of Witherly Lane. The Planned District designation is supported by a set of "*Statement of Principles*" for land use, cultural and natural resources, circulation, and landscape in order to facilitate more cohesive planning for this sensitive area. Many of the principles are from applicable City policies that are already in place. Other principles establishes specific criteria, such as floor area ratios, setbacks, coverage allowances, and architectural and site design guidelines.

In May 1998, the City adopted the *Design Guidelines and Regulations for the Mission San Jose Historic Overlay District*. The document governs the designs of all commercial, institutional and multi-family development within the Historic Overlay District.

## **PROJECT DESCRIPTION:**

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The 13.27-acre project site is currently occupied with 17 buildings that include an existing church / hall (built in 1965), a rectory with an associated 2-car garage, a building known as the Carriage House that serves as the church office, three St. Joseph school buildings (grades 1-8) and nine small buildings for maintenance, storage and former dwellings. The existing St. Joseph's Church / Hall currently serves a community of approximately 3,100 parishioners and seats about 700 parishioners. The reconstructed Mission San Jose is located on an adjoining parcel to the project site. The site is bisected by St. Joseph's Terrace (also known as Monticello Terrace), a private two-lane road that is landscaped with a row of palm trees running down its center. Mission Creek (also known as Mill creek) is a small tributary of the Laguna Creek watershed and a riparian corridor that demarcates the northern boundary of the site. The project site, known as the Gallegos Estate, the Carriage House, Mission Creek, and a group of 66 Canary Island palms adjacent to Mission Creek are Primary Historic Resources. Two hundred (200) trees on the project site are Landmark trees. These trees include the 66 Canary Island palms adjacent to Mission Creek, 3 Mexican and 1 Californian Fan Palm along Mission Boulevard, 25 Canary Island Palm trees along St. Joseph's Terrace and a group of 105 olive trees found in the project area. Many archaeological resources are also buried within the subject property such as an adobe wall, a Mission-period aqueduct and building foundations, and numerous prehistoric artifacts (burnt bone, shell, midden deposits, flaked and ground stone) and historic artifacts (including ceramics and nails).

The applicant proposes to demolish its existing 3,890 square foot rectory and two-car garage and construct a new elliptical shaped 18,077 square foot church in its place, which will seat 850 parishioners. In addition to the new church, the applicant proposes to construct a new parking lot, a plaza and pedestrian walkway, retain the existing Carriage House, introduce new vehicle circulation and install new landscaping. A meditation garden at the rear of the Church and the footprint of a new rectory is also proposed.

The project applicant proposes to construct the project in three phases:

**Phase 1: Monticello Terrace:** The applicant is proposing to construct a new driveway and roadway segment to facilitate onsite circulation prior to the construction of the new church. St. Joseph Terrace, a private street which currently traverses the project site is proposed to be renamed to Monticello Terrace and will be reconfigured to accommodate separate ingress and egress access points.

The *site entry* is designed as part of an entry plaza in the front of the proposed church where vehicles would enter the site from Mission Boulevard at a new driveway roughly 20 feet north of the existing St. Joseph's Terrace. The two-lane ingress driveway would include a circular entry plaza and would merge into one lane as it intersects with Monticello Terrace along the north side of the Church. The main circular entry would be constructed of interlocking pavers, while the driveway would be constructed of stamped concrete, primarily along the Mission Boulevard frontage. The new Monticello Terrace roadway segment will generally follow the site's northern property line, set back between 10 and 80 feet from the edge of the riparian corridor south of

Mission creek. It would extend approximately 500-feet to the east and then veer to the south to connect to the existing Monticello Terrace segment that continues eastward and provides access to the Dominican Sisters complex and adjacent residential uses. A circular entry is also designed for the new Monticello Terrace approach and will be constructed with stamped concrete.

The *site exit* would be relocated to the north, with designated left and right-turn lanes onto Mission Boulevard. Vehicles would exit from the site at a proposed new driveway that would be located approximately 100 feet south of the project site's northern property line. The existing driveway and approximately 170 feet of the existing St. Joseph Terrace roadway segment extending east from Mission Boulevard would be abandoned.

**Phase 2: St. Joseph's Church:** The second phase of the project proposal is the construction of a new church measuring 18,077 SF of enclosed space, including 16,960 SF of worship area and 1117 SF of basement area. The new church would be elliptical in design with its front entrance facing southwest.

The single-story church will have a mission style character with textured off-white painted concrete walls, an open colonnade along its southwest exposure, exposed wood timber trellises and a red clay tile roof. The roof is proposed to be a rounded, sloping and dome-like structure and contain a skylight in its center. The main entrance of the new church will have an arched doorway, painted concrete exterior walls, exposed wood rafters at the roof overhang, and a low steeple. The church's façade would include a steel framed window system with clear glass panes and stained glass accents. The stained glass will predominately be showcased along the rear of the Church and in the northwest bay of the church facing Mission Boulevard. The church will be set back approximately 70 feet from the property line on Mission Boulevard along its northwest bay and approximately 90 feet from the property line at its main entry. The church will have a height of 16 feet to its eaves, approximately 36 feet to the top of the roof, and 44 feet to the top of its tower. A paved and landscaped plaza will surround the Church's main entrance with curvilinear forms chosen for the upper and lower plazas to emulate the natural topography and align themselves axially to the Church, which serves as the focal point. The lower plaza, designed to emulate characteristics Spanish entry plazas, serves as entrance to the site. Liturgical elements, such as an Easter pit and meditation garden, are woven into the landscape design to form a transition from indoor to outdoor space.

The interior church spaces would consist of a narthex (an entrance hall leading to the baptistery and nave); pews organized in semi-circular rows oriented to the church's sanctuary; a choir section and a small hallway directly behind the sanctuary leading to a music storage room and sacristy. From the nave, a semi-circular hallway would connect the church's main seating area to two protruding bays on either side; on the northwest, the hallway would be open onto a vestibule that would connect to restrooms, a janitor's closet / utility space, and a parent seating area. On the southeast, the hallway would be open on to a vestibule that would connect to two chapels, the *Reconciliation Chapel* and the *Blessed Sacrament Chapel*. The church's southwestern bay would also include a bride / usher's room, a mechanical closet, and restrooms. The basement will provide space for the church's mechanical, electrical and lighting systems.

**Phase 3: Future Rectory:** Upon completion of the new roadway segment and church, Phase 3 of the project would include the construction of a new rectory about 550-feet east of its current location. The proposed 4,375 SF single story rectory would be used as parsonage home and benefice, similar to its

existing use on the project site. The rectory would also include a garage, accessible from Monticello Terrace. The design of the rectory is not being proposed at this time; instead staff reviewed the proposed location of the rectory, in order to determine any potential adverse environmental effects with the associated construction and operation of such a use.

## **PROJECT ANALYSIS:**

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### ***General Plan Conformance:***

The proposed project is consistent with the existing General Plan land use designation for the project site because the General Plan designates the Mission San Jose (East) Planned District area principally as “Low-Density Residential”, in a density range 2 to 3.5 units per acre. Semi-public (institutional) facilities are allowed in residential designated areas. A strip of land along Mission Boulevard is designated as part of a “Community Commercial Center”. The General Plan also designates this subject parcel as Historic Overlay and Primary Historic Resource.

The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

The General Plan analysis focuses on the various unique attributes that the project site possesses such as the Mission Creek and riparian corridor, numerous archaeological resources, and Primary Historic Resources. The following section also includes the “*Statement of Principles*” and Mitigation measures from the previously adopted mitigated Negative Declaration for the Mission San Jose (East) Planned District as it relates to these topics.

### **NATURAL RESOURCES GOAL 2: PROTECTION AND CONSERVATION OF NATURAL RESOURCES IN THE PLANNING, DESIGN AND MANAGEMENT OF THE CITY’S LANDSCAPE.**

Objective NR1.1: Protection of areas designated wetlands, including watercourses and riparian areas for their critical biological values including their uses as habitat for rare or endangered animals to maintain connections between habitat units.

Implementation 2: Concurrent with the development application, the extent and characteristics of riparian corridors shall be carefully assessed to a minimum distance of 100 feet from the center of the creek bed. Environmental assessments of these areas shall consider the full spectrum of habitat needs for flora and fauna for their life cycle.

#### ***Mission San Jose (East) Planned District Statement of Principle 3.3.4 (Principle 3.3.4):***

“pending completion of a riparian corridor assessment of Mission Creek, a setback of 100 feet from the center of the creek bed should be used as a guideline for planning purposes. Once an assessment has been completed and the City has established a corridor and appropriate setbacks, all construction, including relocation of Monticello Terrace (i.e., St. Joseph’s Terrace) and related grading and slopes or embankments shall avoid

intrusion upon the riparian corridor unless adequate mitigation measures are approved by the City.”

*Mission San Jose (East) Planned District Mitigated Negative Declaration Mitigation Measure B-4:*

“adequate setbacks should be provided along the Mission Creek corridor. This should include a minimum development setback of 100 feet, unless alternative mitigation is provided.”

*Analysis:* A reconnaissance-level biological and wetlands survey, including a riparian assessment, was conducted of the project site by ESA biologists on August 6, 2003. Approximately 600 linear feet of the northern edge of the project footprint, defined as the limits shown in the Site Grading Plan, ranges from approximately 65 to 120 feet from the Mission Creek center line. The distance between the project footprint and the edge of the assessed riparian corridor ranges from approximately 15 to 70 feet. Approximately 540 linear feet of the northern grading limit is less than 100 feet from the creek centerline. Along approximately one third of this, the setback ranges from 90 to 100 feet, the remainder ranges from 65 to under 90 feet. The total area of setback encroachment is approximately 7600 square feet (0.17 acres). The area in which the setback is greatest (approximately 120 feet) is also the area where the grading limit most closely approaches the edge of riparian vegetation. This area is centrally located along the northern boundary of the project footprint, approximately centered on the grove of large sycamore trees located in the riparian corridor. Over an approximately 200 foot length of the grading limit, more or less centered on the grove of large sycamore trees associated with the riparian corridor, the grading limit to riparian edge distance ranges from about 15 to 45 feet.

The project footprint appears to avoid potentially jurisdictional limits of the riparian corridor, which are under authority of the CDFG (Cal. Fish and Game Code 1600-1616). According to the environmental consultant, permanent impacts to the riparian corridor are avoided. However, the close proximity of the project footprint to the riparian corridor puts the corridor at risk for construction-related impacts and therefore, mitigation measures have been established (Mitigation Measures BIO 5 thru 7). The riparian assessment concluded that the setback along the grading limit/riparian corridor interface appears sufficient to satisfy the intent of the applicable Policy NR 1.1.1 and Principle 3.3.4, in that it retains a continuous, profile of creek bed and bank with woody vegetation with an upland grassland buffer of varying width. According to the consultant this provides a less than optimal setback although it does provide at least minimal continuity of upland buffer. Implementation of Mitigation Measure BIO-5 will insure avoidance of disturbance to riparian habitat in this area and implementation of Mitigation Measure BIO-3 will insure avoidance of disturbance to nesting special status bird species potentially occurring in riparian trees close to the construction zone in this area. Because the setback is less than 100 feet from the creek centerline, alternative mitigation is required to fulfill Mitigation Measure B-2 of the original Planned District Mitigated Negative Declaration. This mitigation measure includes the development and implementation of a riparian habitat enhancement and monitoring plan for the stretch of Mission Creek riparian corridor in the project area.

**FUNDAMENTAL GOAL F-13: VITAL CONNECTIONS BETWEEN THE HISTORY AND HERITAGE OF THE COMMUNITY AND EVERYDAY LIFE.**

**Policy LU7.3:** It is the policy of the City of Fremont to protect, enhance, perpetuate and use structures, sites and areas which are reminders of past eras, events, and

persons important in local, State, or National history. Resources which provide significant examples of architectural styles of the past are unique and irreplaceable assets to the community should be protected to provide for the present and future generations examples of physical surroundings in which past generations lived.

*Analysis:* The northwestern portion of the St. Joseph's Church property is identified as a Primary Historic Resource by the City of Fremont as the location of the Gallegos Estate. (Although the original Gallegos house has been moved from the site, the site remains listed in the Fremont General Plan as a Primary Historic Resource). The other historical resources in the project area from the Gallegos family are the group of 65 palm trees that line the bank of the Mission Creek, and the Carriage House. The environmental document states that the Carriage House on north end of the former Mission San Jose site appears to contribute to the Gallegos Estate listing as a Primary Historic Resource. The applicant is retaining the Carriage House as part of this proposal as well as retaining a large avocado tree that contributes to its setting. Four of the sixty-five Canary Island palms will be transplanted in close proximity of their original location to help alleviate the stress that they are causing on the existing sycamore trees. *(An in-depth analysis of the project as it relates to the Secretary of Interior's Standards and the Mission San Jose Design Guidelines can be found in the Architecture and Historic Resources sections of this report).*

As mentioned earlier, under the project site lies a myriad of cultural (archaeological) resources such as an adobe wall, a Mission-period aqueduct and building foundations, and numerous prehistoric artifacts (burnt bone, shell, midden deposits, flaked and ground stone) and historic artifacts including ceramics and nails. Numerous mitigation measures are outlined in the document to help protect the archaeological resources and in the event of ground disturbance these include, appropriate treatment measures.

### ***Zoning Regulations:***

The project site was rezoned to Planned District in 2001 as part the creation of the Mission San Jose (East) Planned District, in order to provide flexibility in land uses and development standards not normally allowed under other zoning districts, while at the same time allowing the City to steer development toward the objectives of the General Plan. The purpose of the Planned District designation is to "encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation and conservation in the city, which features variations in siting, mixed land uses and/or varied dwelling types. The amenities and compatibility of P districts is to be ensured through adoption of a precise site plan, showing proper orientation, desirable design character and compatible land uses". A *Statement of Principles* was adopted as part of the Planned District, which set forth the established City policies as well as additional policies that are specific to the circumstances of the designated district. The Planned District replaced the low density residential (R-1-20), community commercial C-C and open space O-S designations that previously pertained to various properties within the entire Planned District area.

Per the Land Use section of the *Statement of Principles* adopted as part of the Mission San Jose (East) Planned District, the subject parcel "can continue to be devoted to semi-public (institutional uses) which may include:

1. Assembly facilities in connection with religious institutions.



2. Administrative offices for institutions having facilities in the Planned District;
3. Group housing for members of religious orders, with support facilities”.

As a procedure, the *Statement of Principles* states that, any residential or semi-public land use or activity shall require approval of a major amendment to this Planned District, and the approval process required for any project in the district such as HARB review and compliance with CEQA.

The following section analyzes project conformity based on the *Statement of Principles*.

The following are the general purposes of the *Statement of Principles* that apply to this project proposal:

*Preserve natural and historical values*

This principle states that the focus of the Mission San Jose village will continue to be the historic mission site, and new development within the Planned District will be designed to be visually subordinate to the mission complex. Primary Historic resources within the Planned district will be preserved, including historic buildings, Mission Creek and its riparian corridor setting, and other historic landscaping. Cultural resources will be identified and respected.

*Keep a sense of spaciousness:*

Open spaces will be retained along Mission Creek. New or expanded development in the Planned District area will be relatively modest in scale, and will include open spaces, possibly in the form of courtyards.

*Recognize landscaping as a significant element:*

The wealth of historic landscaping within the Planned District will serve as direction for future development. The existing character suggests that the retention and new planting of trees are traditional in the area, such as palm, olive and orchard trees should be encouraged. Historic plantings along Mission Creek near Mission Boulevard will be preserved, and the upper reach of the Creek offers the possibility of re-establishment of native riparian vegetation.

*Site Planning, Architectural Design & Design Character:*

- Designs for architecture, landscaping and site improvements of semi-public or institutional uses need to observe the *Design Guidelines and Regulations for the Mission San Jose Historic Overlay District*, and particularly the existing design characteristics of buildings and other improvements.
- In this Historic Overlay district it is important to maintain a thread of continuity with the architecture of the early years of the Mission San Jose community. However, strict replication is not an objective. The *Design Guidelines and Regulations for the Mission San Jose Historic Overlay District* recognize that change, “as part of the flow of history”, is necessary and desirable to maintain the vitality of a place.
- New developments should reflect their recognition of, and therefore not attempt to compete with or mimic, the historic development of the Mission San Jose community. Historic buildings can provide inspiration, but, as stated in the design guidelines for Mission San Jose, it is not necessary to follow any specific historic architectural style. Contemporary design can be valid as part of the community’s flow of history.

*Analysis:* The proposed church design reveals that the primary elevation of the new church would reflect the character of the existing Mission church's main façade. However, due to its different composition, scale, height and orientation, the new church would be clearly differentiated from the existing church. The new church would also be painted an off-white or buff color that would be distinctly different from the white of the existing Mission church. In addition, the sanctuary section of the building will be setback approximately 42 feet further from the Mission Boulevard than Mission San Jose. The distance and trees will obscure the mass of the sanctuary, continuing to give Mission Jose visual dominance in the historic district. Therefore, it can be argued that the design does not replicate the existing Mission, rather it references the Mission church through its materials and massing and that it is secondary to and differentiated from the existing Mission Church.

- Architectural designs should minimize blank walls, especially along street frontages and other locations of pedestrian activity. Walls should be punctuated with display windows, café windows, and building entries, with emphasis on high quality materials.

*Analysis:* The vocabulary of Mission style architecture includes solid walls and punched openings. The new Church is designed using this vocabulary, with punched openings at the main mass of the Church building and minimal solid walls on portions of the small one-story ancillary service wings. The blank walls have been minimized in the design and used only where functionally required. One such area is the ancillary wing of the project, which houses the restroom facilities. Stained glass is proposed in this area to minimize the blank wall along that elevation.

*Density:* No specific standards are set for semi-public or institutional uses under the *Statement of Principles*. Appropriateness of development proposals should be evaluated relative to compatibility with existing improvements, both on-site and on neighboring properties; relationship to any historic resources on the site or adjacent sites; compliance with applicable provisions of the design guidelines for Mission San Jose; and avoidance of significant environmental impacts such as traffic, noise, or damage to biological or cultural resources.

*Analysis:* Although there are no standards for FAR for institutional development under the *Statement of Principles*, it should be noted that normally for commercial buildings, development may be permitted to a maximum floor area ratio (FAR) of 0.5, as provided for Community Commercial Centers by the General Plan and the Zoning Ordinance. In addition, the FAR for development in the Mission San Jose is allowed to exceed 0.50. The existing FAR for this project site is 0.07. The proposed FAR totals 0.09, and therefore, is compatible with the existing Mission San Jose village density pattern.

### **Design Guidelines and Regulations for the Mission San Jose Historic Overlay District**

*Setbacks:* The Design Guidelines do not specifically provide direction on particular setbacks that are required for new institutional development. Instead, setbacks are discussed in the context of commercial development. On frontage setbacks on west side of Mission Boulevard, for instance, the *Design Guidelines* state that buildings should be located at the property line, except where outdoor seating and courtyard areas along frontage are designed into the project. In that case, no minimum or maximum setback is required to create a courtyard.

*Analysis:* This proposal includes a large public plaza and therefore, the increased setback could be supported.

Courtyards: Specific guidelines regarding the design of courtyards state that they are to be encouraged to be generally rectilinear in shape with a maximum length-to-width proportional relationship of 3:1. However, this section also states that both the size and shape of courtyards depend upon many specific design conditions, including building height, massing, and orientation and circulation patterns.

Analysis: In this case, the overall design of the plaza area takes into account the topography, existing historic landscaping and the proposed elliptical footprint of the church while connecting the sense of openness to the future parish offices building.

Height Requirements: The proposed church will have a height of 16 feet to its eaves, approximately 36 feet 6 inches to the top of the roof, and 44 feet to the top of its tower. According to the *Guidelines*, The City's Historical Architectural Review Board (HARB) and other approving bodies (e.g. Planning Commission and City Council) may make findings to allow for buildings up to 40 feet if the increased height enhances the historic character of the area or allows for superior architectural design or enhances the historic character of the area. This guideline supercedes the zoning ordinance height as established in Section 8-21822.1(d) in that it would allow approval of structures greater than 30 foot in height.

Analysis: As mentioned earlier, tiled roofs are being proposed and are appropriate to Mission style architecture, particularly in this setting and in response to the existing mission. According to the applicant, tiled roof slopes must have a minimum ratio of 3:12, and must start at a reasonable height to provide headroom and reach enough height to create an atmosphere appropriate to the inside of the Church. The roofs approaching this height are setback substantially from the street, and are sloping in nature. In the case of the sloping roofs, the apparent height of the roof to the ridge or peak is substantially reduced in feeling by the public when compared to a vertical wall of 30 feet, which would be allowed by the Zoning Ordinance. Therefore, the applicant states that the additional height is important to the size and feeling of the assembly space where the reduced height would feel imposing. In addition, the sloping roofs are consistent with the Mission character of the area, and allow for a more delicate and sensitive treatment of the roof and the overall building design.

The applicant is therefore, requesting that Planning Commission also recommend a Finding to allow for the increased building height from the required 30 feet to 36 feet 6 inches and allow for a small portion of the building, specifically the building tower and cross to reach 44 feet in order to maintain an openness in the interior building design while allowing a compatible roof pitch for such a unique elliptical building design. HARB did recommend the Finding for the increased building height. Story poles have been erected in order to give viewers a visual reference for the proposed building for HARB, Planning Commission and City Council review.

Parking Facilities & Shared Parking: Per the *Guidelines*, on-site parking shall be located behind buildings or where there is sufficient setback area for properties facing Mission Boulevard, in side yards. Parking shall not be allowed in front yard setback areas. Consolidation of parking spaces is also recommended.

Analysis: The proposed parking lot is proposed to be located at the rear of the church and also directly behind the existing Carriage House free from view from Mission Boulevard. The applicant is also proposing to use the existing parking lot currently used during the week for the elementary school as

well as the City lot on Mission Boulevard. This avoids any additional impact to the natural environment by decreasing the pavement area on the project site.

Areas for Service Loading & Mechanical Equipment: Per the *Guidelines*, loading areas should be located and designed to minimize their visibility from the street and from adjacent properties. Landscaped walls and fences should be used to screen views of loading areas and dumpsters, especially where they are visible from nearby residences. Mechanical equipment, including air conditioning units, pipes, ducts, vents, access doors, meters, transformers and other equipment which emits noise or exhaust or inhibits pedestrian activity should be located away from sidewalks and seating areas.

*Analysis:* The project applicant is specifically designating two service yard areas for the project. The service areas will be screened by view with walls and landscaping both near both the northwest and southeast bays of the building. The proposed basements will provide space for the church's mechanical, electrical and lighting systems. All roof-mounted equipment will be required to be screened as required by the City's Zoning Ordinance.

(Analysis regarding the proposed architectural style can be found in the architecture section of the report, which collectively deals with the *Secretary of Interior's Standards*, the *Statement of Principles*, and the *Mission San Jose Guidelines*).

*The Fremont Municipal Code - Hillside Combining District (H-I):*

The topography in the area of the proposed project dips towards the west at a slope of approximately 3 to 5 percent on the western side of the project and 10 percent on the eastern side of the project.

*Analysis:* The applicant is proposing to fill the former rectory site and grade in preparation for construction of the proposed church. Approximately 3,684 cubic yards of fill will be imported to the site. The finished building pad elevation would be 315 feet, 8 feet above grade.

A 330-foot-long semi-circular retaining wall, of varying height, is proposed to be constructed around the northwest side of the proposed church. A wall / bench is also proposed as a secondary wall for the terraced landscape area along the front elevation of the church. The height of the wall bench is proposed to be 30" in height and 18" wide. Walls measuring 5' - 6" are proposed along the service yard areas. As required by local grading requirements, the exterior grading would be limited to three to one ratio slopes.

The project site is subject to the requirements of the Hillside Combining Overlay District (H-I). According the Zoning Ordinance, Article 18.2, Sec. 8-21820, the purpose of the Hillside Combining District is "to promote and encourage the orderly development of hillside areas of the city by the application of regulations and requirements established to meet the particular problems associated with development of hillside areas." Hillside Combining Districts require new development to fit the contours of the site, as opposed to changing the land to fit the new development and restrict the maximum height for retaining walls to three feet (Sec. 8-21822.1(i)) and restrict foundation wall heights to no more than six feet from the finished floor elevation (Sec. 8-21822.1(f))

Per the applicants justification statement "the functional necessity of a flat floor plate for an assembly space such as a Church challenges the ability to fit to the topography of the site without some grading

and fill. A split-level or level change within the floor place would be functionally ill advised. The use of the facility by children and seniors on a regular basis would also complicate the accessibility and life safety ingress and egress for this assembly use". In addition, the applicants justification statement also surmises that in order to minimize the impacts on existing burials and archeological fabric, to meet the requirements of the facility that needs to have a single level for a functional floor area, to increase the setback requirements to satisfy the Mission Boulevard vehicular safety concerns, to increase the setback requirements to minimize competition with the Mission and in recognition of the fact there is an existing minor grade depression along Mission Boulevard, the proposed solution minimizes the grading to the overall site for this facility and project.

According to the applicant's justification statement, exterior grading is limited to 3:1 slopes wherever possible. Requirements from planning, traffic, landscaping and engineering necessitate limited spot locations where slopes exceed 3:1. Some of these considerations include minimizing impacts to vegetation, archaeological remains, vehicular safety concerns along Mission Boulevard, and functional requirements of the use. The applicant believes that the current proposal optimizes all of the concerns and meets the intention of the ordinance to minimize grading impacts.

It should be noted that the geological analysis conducted for the environmental document concluded that the proposed grading plan of the site would not significantly alter the topography of the site such that seismically induced landslides would be considered likely. In addition, the final grading will conform to applicable building code requirements and current engineering practices, which mitigate the potential for landslides.

The applicant is therefore requesting that Planning Commission recommend a Finding to allow for the proposed deviations from the Hillside Combining District to allow for limited spot locations where slopes exceed 3:1, to change the land to fit the new development, and build walls in excess of the 3 height limit. Although the proposed project does not meet the standards, the project has been modified to the extent practicable for a project site of such uniqueness with challenges such as archaeological remains and the existing topography. Design considerations including the setback from the Church to Mission Boulevard coupled with the proposed upper and lower terraced plazas, help reduce the fill impact on the site. HARB recommended this Finding to the City Council.

#### Parking:

The City of Fremont requires one parking space for every five seats for a religious facility. The proposed church will hold 850 seats, thus requiring 170 parking spaces. In addition, the future parish offices include 4,356 square feet of assembly space, and 15,267 square feet of office space. The City requires one space for every 100 square feet of assembly space and one space for every 300 square feet of office space. Thus the future parish offices would require a total of 95 parking spaces (44 for the assembly space and 51 for the office space). The proposed project would require a total of 265 spaces.

The project would construct a total of 65 new parking spaces. Seven parking spaces would be located east of the proposed church, north of the carriage house. Fifty-eight spaces would be located on the site of an existing field in a new parking lot east of the carriage house that would serve the church and other onsite uses. The project would retain the existing 128 parking spaces on the site, which are located to the south and east of the rectory and on the blacktop in front of the St. Joseph's School buildings. At the project completion, a total of 193 parking spaces would be available onsite.

The Church currently uses a City parking lot across from the church on Mission Boulevard. The church would still have access to the City lot across the street. There are approximately 135 off site parking spaces available on Sundays, for a total of 328 parking spaces.

### ***Design Analysis:***

#### ***Architecture:***

*Existing conditions:* Most of the buildings on the project site, exhibit characteristics of the Spanish Eclectic architectural style with simple, one story, rectilinear massing, beige stucco siding, and low pitched, side gabled roofs with terra cotta Mission tiles. The buildings also feature wide overhanging eaves with exposed rafters, colonnaded porches along front facades, and casement windows. The Carriage House, which is older than the other buildings on the site, contains architectural features that are more Folk Victorian in style, characterized by irregular massing and a hipped roof with several gables. The Carriage House, likely built in the 1880's, is sided with vertical board and battens and contains several covered porches, both on the ground floor and on the second story. The project site is dominated by the presence of the Mission San Jose, which abuts the project site to the south. The Mission complex, a State of California Historic Landmark, includes the historic Mission building, an adjacent museum, and a cemetery. According to the California Office of Historic Preservation, Mission San Jose was listed in the National Register of Historic Places on July 14, 1971. The original adobe mission church was dedicated in 1809 but was destroyed. It was replaced by a faithful reconstruction of the original mission church, that was completed and rededicated in 1985. The original mission cemetery is located to the north of the mission church. The Mission San Jose District is defined by the dominance of the reconstructed mission church and by what is described in the *Guidelines and Regulations* as the "informal and semi-rural character" of the area. Freestanding religious buildings, commercial stores and offices that are surrounded by landscaped open space support this character.

*Proposed Architecture:* The single-story church will have a mission style character with textured off-white painted concrete walls, an open colonnade along its southwest exposure, exposed wood timber trellises and a red clay tile roof. The roof is proposed to be a rounded, sloping and dome-like structure and will contain a skylight in its center. The main entrance of the new church will have an arched doorway, painted concrete exterior walls, exposed wood rafters at the roof overhang, and a low steeple. The church's façade would include a steel framed window system with clear glass panes and stained glass accents. The stained glass will predominately be showcased along the rear of the Church and in the northwest bay of the church facing Mission Boulevard. The church will be setback approximately 70 feet from the property line on Mission Boulevard along its northwest bay and approximately 100 feet from the property line at its main entry. The church will have a height of 16 feet to its eaves, approximately 36 feet to the top of the roof, and 44 feet to the top of its tower.

*Secretary of Interior's Standards:* According to the Historical Consultant, the proposed church would achieve consistency with the Secretary of the Interior's *Standards for Rehabilitation*. The proposed church is differentiated from the existing Mission church in terms of scale and materials and composition. The new church distinguishes itself from the historic environment and established patterns of institutional construction in the historic Mission San Jose District by being constructed at an angle to Mission Boulevard rather than perpendicular to the street, and the design of the new church is compatible with the existing Mission church through its use of similar design elements and materials (loggias, red tile, stucco cladding, etc.).

*Design Guidelines:* As described in the Zoning regulations analysis section, according to the City of Fremont's *Statement of Principles* for the Mission San Jose Planned District, new construction in the district should be "visually subordinate to the mission complex," while contributing to the "flavor of the area." The Design Guidelines and Regulations also state that Mission Revival style buildings should be "less prominent than the Mission San Jose." In addition, it is suggested in section 2.3 of the Mission San Jose Historic Overlay District Design Guidelines and Regulations that "off-white or buff colors should be used for stucco buildings, avoiding the white used on the Mission San Jose as a way to enforce the hierarchy of the Mission as the "heart of the District."

Analysis: According to the historical consultant, the proposed church design reveals that the primary elevation of the new church would reflect the character of the existing mission church's main façade. However, due to its different composition, scale, height and orientation, the new church would be clearly differentiated from the existing church. A contemporary church plan with a mission style character is not objectionable, but it is important that the new church reference the Mission church through its materials and massing and that it be secondary to and differentiated from the existing Mission Church. The new church would be painted an off-white or buff color that would be distinctly different from the white of the existing Mission church.

#### ***Historic Resources:***

The Mission San Jose and St. Joseph's Church site contain historic resources that have been given the following designations:

- The Fremont General Plan lists the Gallegos Estate grounds (the subject property) as a Primary Historic Resource
- The Mission San Jose (East) Planned District defines the Gallegos Estate grounds as the northwestern portion of St. Joseph's Church property.
- The Carriage House is a Primary Historic Resource.
- Mission Creek (also known as Mill Creek) is a Primary Historic Resource
- 66 Canary Island palms adjacent to Mission Creek are a Primary Historic Resource
- Mission San Jose is designated as California Registered Historical Landmark No. 334. The main church, the Dominican Sisters Seminary building and courtyard, earlier mission gardens, statuary, outbuildings and several cemeteries are listed as contributory resources.
- According to the California Office of Historic Preservation, Mission San Jose was listed in the National Register of Historic Places on July 14, 1971.

The California Environmental Quality Act and the Guidelines for Implementing CEQA indicate that resources listed in a local historic register are to be presumed historically or culturally significant unless the preponderance of evidence demonstrates they are not. The list of Primary Historic Resources in the Fremont General Plan is considered to be a local historic register. As such, properties listed in this register are considered to be historic resources for purposes of CEQA review.

The northwestern portion of the St. Joseph's Church property is designated as a Primary Historic Resource by the City of Fremont as the location of the Gallegos Estate. (Although the original Gallegos house has been moved from the site, the site remains listed in the Fremont General Plan as a Primary Historic Resource). The other aboveground resources in this area from the Gallegos family are the palm

trees that line the bank of the Mission Creek, and the Carriage House. The environmental document states that the Carriage House on north end of the former Mission San Jose site appears to contribute to the Gallegos Estate listing as a Primary Historic Resource. Additionally, the estate's original topography adjacent to Mission Creek appears to be intact. The open, grassy character of the north end of the project site retains the "informal and semi-rural character" that has been identified by the City of Fremont in its Mission San Jose District Guidelines and Regulations.

**Carriage House:** According to historic Sanborn Maps and the Gallegos House DPR 523 form (December 2001), there were two wood-frame dwellings on the Gallegos Estate, one that was occupied by the Gallegos family and another, closer to Mission Creek, that was rented out. The house nearer the creek had a garage. This garage is thought to be the building currently known as the Carriage House. The Gallegos House DPR 523 form indicates that the garage shown on the Sanborn Maps was left in place when the Gallegos House and the other house on the property were relocated in 1974. The Carriage House is the last building remaining on site from the original Gallegos Estate, which occupied a portion of the project site.

According to the historical consultant from Page & Turnbull, although the Carriage House appears to have lost much of its historic context, the building itself appears to be a good example of a late-nineteenth century wood-frame Carriage House with vertical board and batten siding. The building's date of construction is unknown but it is thought to have been constructed around the time of the estate's main house, which was started in 1882. The building is thought to be in its original location. For purposes of evaluating the integrity of the Carriage House, the *Instructions for Nominating Historical Resources to the California Register of Historical Resources* were consulted. These instructions provide a guide for evaluating a resource's integrity based on the following seven variables: location, design, setting, materials, workmanship, feeling and association. According to the instructions, "to be eligible for listing, resources must retain enough of their character or appearance to be recognizable as historical resources and convey the reasons for significance."

**LOCATION:** The Carriage House appears to be in its original location. No information has surfaced in the course of research that indicates otherwise.

**DESIGN:** Like many historic buildings, there is a strong chance that the Carriage House has been altered from its original configuration. Historic images of the Carriage House have not been found, but if further research on this building is undertaken, it is recommended that a search be completed for historic images of the Carriage House to determine its earlier configuration.

**SETTING:** The current setting of the Carriage House is semi-rural in character, and the building is surrounded by trees and grasses. When the two houses on the Gallegos Estate were relocated to new sites, the Carriage House's immediate context was lost, but its overall setting in the landscape and near the creek remains.

**MATERIALS AND WORKMANSHIP:** The Carriage House appears to be one of the few examples of original board and batten siding remaining in the Mission San Jose District. The building is in need of repair and is showing signs of deterioration, but it has not lost its material integrity.



**FEELING AND ASSOCIATION:** The Carriage House is the last piece of construction from the era of the Gallegos family to remain on its original site. As such, its associations with the family and the site's history are strong.

Overall, the Carriage House is still recognizable as a Carriage House. There is a barn-like area on the building's ground floor that is used as a storage facility for the church, and the adjacent ground floor area functions as the church office. According to the historical consultant, the Carriage House retains its integrity as an historic resource.

The project sponsor is required to retain the Carriage House along with a portion of the historic landscape and trees that surround the building. The proposed alterations to the topography and landscape of the former Gallegos Estate, which is considered by the City of Fremont to be a Primary Historic Resource, would have a significant impact on the environment. Implementation of CULTURAL – 1 – Mitigation Measure will reduce the potential impact to less than significant. This mitigation measure states, "The applicant and/or its contractor(s) shall retain the Carriage House and its immediate surrounding landscape. If the Carriage House is ever rehabilitated it shall maintain its historical integrity by adhering to the Secretary of the Interior's Standards for Rehabilitation.

***View Impacts:***

*Existing conditions:* When one approaches the project site from northbound Mission Boulevard, the project site is intermittently visible to the east through a heavily vegetated gateway from a small bridge over Mission Creek. An orderly row of palms and gas lamp style lighting defines the street edge. Glimpses into the site's foliated interior, especially along the Mission Creek riparian corridor are available. Further to the south, the single-story beige rectory, with its low-hanging eaves and terracotta roof, can be seen setback from the roadway. St. Joseph Terrace, found between the rectory and the existing church/hall, creates visual openings along Mission Boulevard, allowing longer-range views to penetrate into the site. A row of palms planted in the median draws the eye further into the site and to the Spanish-eclectic style Dominican Sisters complex set against rolling hillsides. South of the existing church/hall (future parish offices), near the intersection of Mission and Washington Boulevards is the Mission San Jose cemetery, bordered by a stark white adobe wall, and the church and its museum wing. Long-range views along Mission Boulevard in both directions are framed by rolling hills in the background. To the south, Mission Peak is visible.

*Changes due to project proposal:* The proposed project will result in a substantial change to the visual character of the project site. The project proposal entails the demolition of the existing rectory and the construction of a new and taller church north of the existing church/hall while altering the project driveways with a new roadway and entry plaza. The church will be visible along Mission Boulevard, especially in views to the south. The proposed single-story church will be elliptical in shape and will be constructed in a mission style with off-white painted concrete walls, an open colonnade along its southwest exposure, exposed wood timber trellises, and a red clay tile roof. The proposed church, therefore, will be compatible with other buildings in the project vicinity with its proposed mission architecture style and use of similar building materials. The church will be oriented in a way such that its main entry would face southwest, and the church itself will be set back between 50 and 90 feet behind Mission Boulevard.

Monticello Terrace will be landscaped with a variety of new and transplanted trees from other locations on the project site (e.g., olive trees). According to the environmental consultant, the project landscaping will, over time, mature and visually screen direct views of the church from Mission Boulevard, similar to the effect existing landscaping currently has on the project site. In addition, the sanctuary section of the building will be set back approximately 42 feet further from the Mission Boulevard than Mission San Jose. The distance and trees will obscure the mass of the sanctuary, continuing to give Mission Jose visual dominance in the historic district. It was concluded, during the environmental analysis, that the proposed church would not result in a substantial negative aesthetic effect and that it would not substantially degrade the visual character of the site and its surroundings. Story poles have been erected to help illustrate the proposed massing and height of the building for HARB, Planning Commission and City Council review.

*Building height:* As mentioned earlier in the report, the church is proposed to have a height of 16 feet to its eaves, approximately 36 feet 6 inches to the top of its roof, and 44 feet to the top of its tower. It's overall apparent height would be similar to (and slightly lower than) the adjacent Mission complex. According to the environmental report, although the proposed new church would obstruct some views of the site's interior and distant hillsides to the east— existing views of the hills along Mission Boulevard would continue to be available under project conditions. As mentioned above, story poles have been erected to give viewers a visual reference for the proposed building during the design review process.

*Lighting:* Presently there is limited nighttime lighting on the site from the existing church, onsite parking areas, and from the site's interior roadway. The proposed new church, future rectory, and new roadway, could introduce a new source of light and glare to the site attributable to exterior lighting installed for purposes of safety and security. As part of the project, exterior light fixtures would be designed to shield the light source, aiming the cone of light directly downward, preventing direct viewing of the bulb from offsite receptors, while illuminating the intended location. Additionally, in the vicinity of the proposed church location, a number of trees border the church site to its north, which would minimize and screen potential project light spillage to nearby homes.

### ***Open Space/Landscaping:***

*Existing:* The Mission San Jose setting continues to be semi-rural in character, with open areas located at the north end of the site and built areas located in the middle and southern portions of the site. The project site is rich with cultural resources and has an extensive array of tree species that make the landscape unique in Fremont. Historic palm and olive trees are scattered throughout the site, many of which date from the time of the Gallegos family and earlier. The project sponsor is admirably protecting existing tree resources on the site, including existing Canary Island Date Palms, Mexican Fan Palms and Californian Fan Palms; olive, avocado and Coast Live Oak trees. A total of 341 trees representing 47 species were surveyed.

Under Fremont Municipal Code section 4-5112(b), trees that are designated in the General Plan as primary historic resources (PHR) are automatically designated as Landmark Trees. As mentioned earlier, 66 Canary Island Date Palm trees located adjacent to Mission Creek are as a group designated as Primary Historic Resources. The olive trees on adjacent Dominican Sisters grounds are listed as PHR48 but certain information in the record of this resource is ambiguous (*i.e.* the address). The trees are believed to be from the same stock as those on the Dominican Sisters property (themselves derived from

cuttings of the original Mission San Jose trees). All told, two hundred (200) Landmark Trees occur on the project site. These Landmark Trees are described below:

- 1) The group of 66 Canary Island palm trees located adjacent to Mission Creek (also designated Primary Historic Resource Trees in the General Plan);
- 2) Three (3) Mexican and one (1) California Fan Palm located along Mission Boulevard;
- 3) The row of 25 Canary Island palm trees occurring along Saint Joseph's Terrace;
- 4) The group of 105 olive trees found in the project area.

All tree removals and relocations, including those that are Landmark and Primary Historic Resource Trees, are discussed in detail later in this report.

*Proposed:* The applicant agrees to tree preservation measures as part of the project that would be in place prior to commencement of demolition, grading and construction activities and maintained throughout the construction period. According to the environmental analysis, these mitigation measures may not normally be sufficient to mitigate for the impact of their removal, due to the number of trees proposed to be removed, transplanted, and impacted, and the loss of many mature examples of varieties regarded as historic landscaping in the Mission San Jose (East) Planned District. Therefore, the applicant is required to also develop and implement a riparian habitat enhancement and monitoring plan for the stretch of Mission Creek riparian corridor in the project area to reduce the impacts to the project area to less than significant.

A paved and landscaped plaza would surround the church's main entrance. Broad steps would lead from the plaza up to the main church entry. The plaza would link the sidewalk along Mission Boulevard to pedestrian pathways leading to the site's interior. Pedestrian access from the public sidewalk would follow the circumference of the entry driveway plaza. The proposed plaza would preserve the row of historic palm trees from St. Joseph Terrace as well as include transplanted olive trees from other portions of the site, and include some Early American plant materials near the plaza entry. The project also proposes extensive landscaping in the proposed plaza area, in and around onsite surface parking lots, and along the site's perimeter adjacent to Mission Creek. Additional onsite landscaping would consist of new lawn and ground cover adjacent to the proposed church and onsite roadways.

*City Landscape Architect Review of Proposed Tree Removals and Relocations:* In September 2003, a total of 341 trees, representing 47 species were surveyed on the project site.

Sixty-six (66) trees are designated in the General Plan as "Primary Historic Resources," while one hundred thirty-four (134) trees met the criterion for "Landmark Trees." As all trees designated as Primary Historic Resources in the General Plan are automatically designated Landmark Trees by Fremont Municipal Code 4-5112, the project site contains a total of two hundred (200) Landmark Trees.

Thirty (30) trees were "Native Protected Trees" (a trunk diameter of 10" or greater for certain native trees or trees of exceptional adaptability to Fremont). One hundred and seven (107) trees met the criterion for "Protected Trees," having a trunk diameter of 6" or greater for non-native species.

Trees within the project area were dominated by planted exotic species. The most frequently occurring species were: Olive (105), Canary Island Date Palm (94), Monterey Pine (14) and Avocado (11). Together, these four species accounted for two-thirds of the trees surveyed. Coast Live Oak was the

third most common species with 16 trees. This species is native to the area and is likely indigenous to the site. Trunk diameter ranged from 6" to 55" single-trunked trees.

Tree condition was predominantly good (46%) and fair (40%). Only 12% were in poor condition. Seven (7) trees representing 2% of the total were dead or removed (one tree).

The project plans propose the removal of 76 trees and relocation of 18 trees. Of the 76 trees that are proposed to be removed, 56 have been rated as having poor to moderate suitability for preservation. The remaining 20 trees have good suitability for preservation. Also included in the list of trees to be removed are six (6) Landmark trees, all of which are either dead or severely decayed. They include four Landmark Canary Island Palms (#258, 259, 261, 263) and two Landmark Olives (#123, 173). However, all of the Landmarked trees to be removed are not individually designated as such, but rather are part of groups of trees that have been collectively Landmarked.

Of the 18 that will be transplanted, four are Primary Historic Resources (#149, 154, 165, 162) and eight trees are part of the Landmark Tree groupings. Specifically, Trees #475, 302, 122, and 135 are part of the Olive Tree Landmark Tree Grouping; and Trees #268, 119, 101, and 267 are part of the Canary Island Date Palm Landmark Tree Grouping.

The relocation and removal of the Landmark Trees will not fundamentally alter the character of the PHR/Landmark group of trees because each of the transplanted trees have been located as an integral component of the Church's site plan, and in many cases replaces dead Landmark trees that have required removal. After the alterations, the character, impact and site coverage of each tree grouping will be consistent with the existing character, impact, and site coverage of each of the groupings.

*Recommendation to add four new trees to the City Landmark Tree List:* The applicant proposes that City Council designate four other trees on the property for landmark status. These include a large avocado near the existing Carriage House, and the largest and most prominent three of the six large Sycamores located along Mission Creek.

The three Sycamore trees are significant specimens with trunk sizes of 48 inches, 53 inches and 54 inches in diameter. The Sycamore trees are eligible candidates for the Landmark Tree List and meet the following general criteria set out in Section 4-5112 of the Tree Preservation Ordinance, which guides City Council in the designation of new Landmark Trees:

1. The trunk diameters are 54 inches in diameter or close to it
2. The trees are exemplary examples of its species and exist in their native habitat
3. The trees have no known hazardous defects
4. The trees have substantial aesthetic appeal
5. The trees have a long life expectancy

In addition, the trees meet other special criteria supporting Landmark designation as follows:

1. The trees are native to Fremont
2. The trees are associated with a site that is significant to local cultural heritage

In order to allow the Sycamores to continue to thrive, the applicant will relocate three Primary Historic Canary Island Palm Trees (part of the grouping described earlier) slightly away from the Sycamores. The three palms currently grow right through the canopy of the Sycamores creating overcrowding for both the Sycamores and the Palms. Palms are substantially easier and less costly to relocate than Sycamores. Staff will work closely with the applicant during Development Organization review to make sure the Palm relocation is complementary and consistent with the remaining group of Palms.

The Avocado Tree is an impressive tree with five separate trunks that are 33 inches, 27 inches, 25 inches 23 inches and 22 inches in diameter, and all together total 130 inches of trunk diameter. The applicant has proposed a generous planting area in the parking lot dedicated to the preservation of this tree. The avocado tree will be a dominant tree in the new setting created by the project and a strong reminder of the agricultural past associated with the site and general area. The Avocado tree is an eligible candidate for the Landmark Tree List and meets the following general criteria set out in Section 4-5112 of the Tree Preservation Ordinance, which guides City Council in the designation of new Landmark Trees:

1. The trunk diameter exceeds 54 inches in diameter
2. The tree is an exemplary example of its species
3. The tree has no known hazardous defect
4. The tree has substantial aesthetic appeal
5. The tree has a long life expectancy

In addition, the tree meets other special criteria supporting Landmark designation as follows:

1. The tree is associated with a site that is significant to local cultural heritage.
2. The tree has an especially prominent and beautiful visual impact.
3. It is rare for this species to reach such a grand size.

***Circulation:***

As mentioned earlier, in the project description portion of this report, the applicant is proposing to construct a new driveway and roadway segment to facilitate onsite circulation prior to the construction of the new church. The existing St. Joseph Terrace / Monticello Terrace, a two-lane private road which currently traverses the project site is proposed to be abandoned and will be reconfigured to accommodate separate ingress and egress access points (discussed below). The new private street will be named Monticello Terrace.

*Existing conditions:* St. Joseph Terrace / Monticello Terrace provides access to St. Joseph's Church and a small number of low-density residential properties. Currently the roadway is posted at 25 mph and has signalized school warning signs adjacent to the project site. The first 100 feet + of the road is divided by a raised center median. The eastbound lane is equipped with school markings, including school-crossing signs, a flashing-yellow light, and a speed bump.

The project proposal includes a Private Street application for the relocation of the existing private street. The homeowners who live on Monticello Terrace will be primarily affected by this new location. The homeowners have signed the application and are aware of the proposed configuration. A condition of approval has been added to require the existing homeowners to sign quit claims relinquishing their access right over the existing road. Street improvement plans for the new portion of Monticello Terrace

shall be submitted for Development Organization review and approval, prior to issuance of building permits.

*Proposal:* The *site entry* is designed as part of an entry plaza in the front of the proposed church where vehicles would enter the site from Mission Boulevard at a new driveway roughly 20 feet north of the existing St. Joseph's Terrace. The new ingress driveway includes a circular entry plaza and a twenty-four foot wide drive aisle, which tapers down to sixteen feet wide as it intersects with Monticello Terrace along the north side of the Church. The new Monticello Terrace roadway segment will generally follow the site's northern property line, set back between 10 and 80 feet from the edge of the riparian corridor south of Mission Creek. It would extend approximately 500-feet to the east and then veer to the south to connect to the existing Monticello Terrace segment that continues eastward and provides access to the Dominican Sisters complex and adjacent residential uses.

The *site exit* would be relocated to the north, with designated left and right-turn lanes onto Mission Boulevard. Vehicles would exit from the site at a proposed new driveway that would be located approximately 100 feet south of the project's site's northern property line. The existing driveway and approximately 170 feet of the existing St. Joseph Terrace roadway segment extending east from Mission Boulevard would be abandoned. The developer shall obtain an encroachment permit for all construction within the Mission Boulevard right-of-way.

The project would also establish a new drop-off area for the proposed church. The drop-off zone would be located along the internal road south of proposed sanctuary entrance. On-street parking would be prohibited along Monticello Terrace to allow for unimpeded access for emergency vehicles.

*Pedestrian access:* The applicant proposes to develop a historic-based pedestrian entry, which would include a paved and landscaped plaza that would surround the church's main entrance. Broad steps would lead from the plaza up to the main church entry. The plaza would link the sidewalk along Mission Boulevard to pedestrian pathways leading to the site's interior, primarily to the future hall / office area. Pedestrian access from the public sidewalk would follow the circumference of the entry driveway plaza to the main entry. The proposed plaza will preserve the row of historic palm trees from St. Joseph Terrace as well as include transplanted olive trees from other portions of the site, and include some Early American plant materials near the plaza entry.

The new Monticello Terrace roadway does not include an integrated sidewalk for pedestrian use. The City's development policy for hillside streets requires that walkways be provided along private streets as determined by the Planning Commission. Staff has encouraged the applicant to provide a sidewalk along the new portion of Monticello Terrace, however the applicant has refused, citing that there has never been a sidewalk on Monticello Terrace and that alternative pedestrian access is provided through the middle of the project site.

The Initial Study and Draft Mitigated Negative Declaration concluded that the vehicle trip generation on Sundays for the proposed project would cause less than a significant impact to the environment. Analysis also included construction period impacts, queuing analysis, proposed number of driveways, and pedestrian circulation. Various conditions of approval have been added regarding marking drop off zones with signs and pavement markings, providing a circulation diagram to guardians of students who attend school, and providing bicycle parking spaces onsite near the building entrances. These conditions

of approval would assist in decreasing any potential for conflicts between vehicles, pedestrians and bicycles.

***Grading & Drainage:***

*Grading:* The topography in the area of the proposed project dips towards the west at a slope of approximately 3 to 5 percent on the western side of the project and 10 percent on the eastern side of the project. The applicant is proposing to fill the former rectory site and graded in preparation for construction of the proposed church. Approximately 3,684 cubic yards of fill will be imported to the site. The finished building pad elevation would be at 315 feet, or approximately 8 feet above existing grade.

A 330-foot-long semi-circular retaining wall, measuring varying degrees in height, is proposed to be constructed around the northwest side of the proposed church. A wall / bench is also the proposed as a secondary wall for the terraced landscape area along the front elevation of the church. The height of the wall bench is proposed to be 30" in height and 18" wide. Walls measuring 5'-6" are proposed along the service yard areas. As required by local grading requirements, the exterior grading would be limited to three to one ratio slopes (some limited exceptions exist where in conflict with other City requirements (i.e., other project mitigation)).

The project site is subject to the requirements of the Hillside Combining Overlay District (H-I). According the Zoning Ordinance, Article 18.2, Sec. 8-21820, the purpose of the Hillside Combining District is "to promote and encourage the orderly development of hillside areas of the city by the application of regulations and requirements established to meet the particular problems associated with development of hillside areas." Hillside Combining Districts require new development to fit the contours of the site, as opposed to changing the land to fit the new development and restrict the maximum height for retaining walls to three feet (Sec. 8-21822.1(i)) and restrict foundation wall heights to no more than six feet from the finished floor elevation (Sec. 8-21822.1(f)). The project would also not adhere to all requirements of the Hillside Combining District in that this would not maintain a slopes ratio of not more than 3:1 and that it would not design buildings to fit the site topography.

As mentioned earlier in the report, the geological analysis conducted for the environmental document concluded that the proposed grading plan of the site would not significantly alter the topography of the site such that seismically induced landslides would be considered likely. In addition, the final grading will conform to applicable building code requirements and current engineering practices, which mitigate the potential for landslides. As discussed in the previous zoning section of this report, a Finding to allow for deviations to the Hillside Combining District is being proposed.

*Drainage:* The proposed project would not alter the existing Mission Creek. The project would alter the drainage pattern of the site by introducing an area of impervious surfaces with the construction of the church building and access road. In addition, the proposed parking lot, although it would be constructed as a pervious surface, would include a catch basin to drain into the proposed bioswales throughout the project site. Grassy swales are proposed near along the edge of the proposed parking lot and in front of the property along Mission Boulevard. Pervious materials are also proposed in the form of interlocking pavers in the entry areas to the site. The construction phase of the project would operate under a SWPPP that would include Best Management Practices to manage erosion and potential siltation.

***Utility Districts:***

The project site is traversed by several utilities to serve both the church and the uphill neighbors. The majority of the utilities are located along the existing private street, St. Joseph Terrace/Monticello Terrace. In order to provide the plaza entry to the church, the project intends to abandon a portion of the existing private street, however the existing utilities are proposed to remain in place.

The Alameda County Water District (ACWD) maintains an existing water main within the existing private street. ACWD does not support the proposal to retain the existing main under the proposed plaza and associated site improvements. Instead, ACWD wants the existing main to be abandoned and a new water main be installed in the relocated Monticello Terrace. A condition of approval has been included that requires the developer to receive approval from the effected utility agencies and companies, prior to issuance of site development or building permits.

The project site is also located within Utility Underground District 4, which covers most of the Fremont hill area. In accordance with the Utility Underground Districts Ordinance, construction of new overhead utility lines or wires, poles or other associated overhead utility facilities, is prohibited. The project complies with the ordinance because the existing overhead utilities will be removed and new utilities will be installed underground.

***Biological Resources:***

The following special status species were determined to have *potential* to occur in the vicinity of the project site and the potential to be impacted by the project. Mitigation measures have been prepared (found in the Draft Mitigated Negative Declaration) to avoid significant impacts to the biological resources identified below.

*California red-legged frog* (a Federal Threatened Species and a California Species of Special Concern): Mission Creek provides low quality habitat for California red-legged frog. Downstream of Mission Boulevard, the creek is channelized with vertical walls and lined with concrete. Adjacent to the project site, the creek supports a riparian corridor dominated by Canary Island palms, and two limited areas dominated by native sycamore and willows. The creek does not support emergent wetland vegetation. Though perennial, the creek is shallow and swift and does not appear to support pools or backwater areas suitable for breeding. California red-legged frogs have not been observed within two miles of the project site. However, if California red-legged frogs are present within a stock pond and other seasonal aquatic habitat within 1.5 miles of the project site, these individuals may utilize aquatic habitat within Mission Creek. Should the species occur, construction activities in or adjacent to the creek and riparian area could result in disturbance to or direct mortality.

*Burrowing owls* (a State of California Species of Special Concern): Grassland habitat with suitable small mammals was not observed on the project site. Burrowing owls are not likely to occur within this area. Although the potential for burrowing owl in habitats onsite is low, owls could inhabit site prior to construction activities. If burrowing owls are present on or adjacent to project development sites at the time of project ground-breaking, construction activities could result in disturbance to or direct mortality of owls.

*Cooper's hawk and sharp-shinned hawk* (both State of California Species of Special Concern): The Mission Creek riparian corridor and other trees on the project site provide potential habitat for these



species in addition to other non-listed special-status nesting raptors and other nesting birds. Construction activities could affect nesting of these species.

*Bats:* Three bat species have a moderate potential to occur on the site. These are *Pacific western big-eared bat*, *long-eared myotis*, and *fringed myotis*. Several other species have low potential but should still be considered possible to occur on site. These are pallid bat, greater western mastiff bat, western small-footed myotis, longlegged myotis, and Yuma myotis.

### ***Environmental Review:***

An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The environmental analysis identified concerns regarding potential impacts to Air Quality, Biological Resources, Cultural resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use, Noise, and Transportation. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

### ***Mitigation measures***

***Air Quality*** mitigation measures include BAAQMD's basic and enhanced dust control procedures during project construction; ***Biological resources*** mitigation measures include avoiding impacts to the California red-legged frog, burrowing owls, nesting raptors, bats and the existing riparian corridor; ***Cultural Resources*** mitigation measures regarding the retention of the existing Carriage House, avoidance of the wall foundation located between Mill Street and Monticello Terrace, avoidance of archaeological resources; ***Geological and Soils*** mitigation measures primarily deal with the need to prepare a site specific geotechnical report; ***Hazards and Hazardous Materials*** mitigation measures deal with identifying and removing suspected PCB and Lead Based Paint containing materials (if present); ***Hydrology and Water*** mitigation measures include minimizing the amount of pollutants entering the storm drain, and Integrated Pest Management techniques; ***Land Use*** measures include protecting the riparian corridor during construction; ***Noise*** mitigation measures include muffling all equipment used during construction, construction hours and providing adequate contact information; ***Transportation*** mitigation measures include requiring that the applicant continue to use the City owned lot across Mission Boulevard for off-street parking. In addition, a Mitigation Monitoring Program is recommended for adoption in order to ensure implementation of mitigation measures.

This project was submitted to the Alameda County Congestion Management Agency (ACCMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. To date, no comments were received.

### **PUBLIC NOTICE AND COMMENT:**

Public hearing notification is applicable. A total of 525 notices were mailed to owners and occupants of property within 1000 feet of the site. The notices to owners and occupants were mailed on February 10, 2006. A Public Hearing Notice was published by The Argus on February 9, 2006.

## **ENCLOSURES:**

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### ***Exhibits:***

- Exhibit "A" Preliminary / Precise Plan site plan, Architectural Elevations, Floor Plans, Landscape Plans, Preliminary Grading Plan and Private Street
- Exhibit "B" Findings and Conditions of Approval – Planned District Major Amendment
- Exhibit "C" Findings and Conditions of Approval – Preliminary Grading Plan & Private Street
- Exhibit "D" Initial Study and Draft Mitigated Negative Declaration, Monitoring Plan
- Exhibit "E" Private Street Application – signatures from property owners

### ***Informational Items:***

- 1. Traffic Study
- 2. Applicant's Planned District Justification statement
- 3. Colored rendering
- 4. HARB Minutes, February 2, 2006
- 5. Response to HARB member questions

### ***Supplemental Hearing Materials:***

- 6. Exhibit "F" - Color and Material Board

## **RECOMMENDATION:**

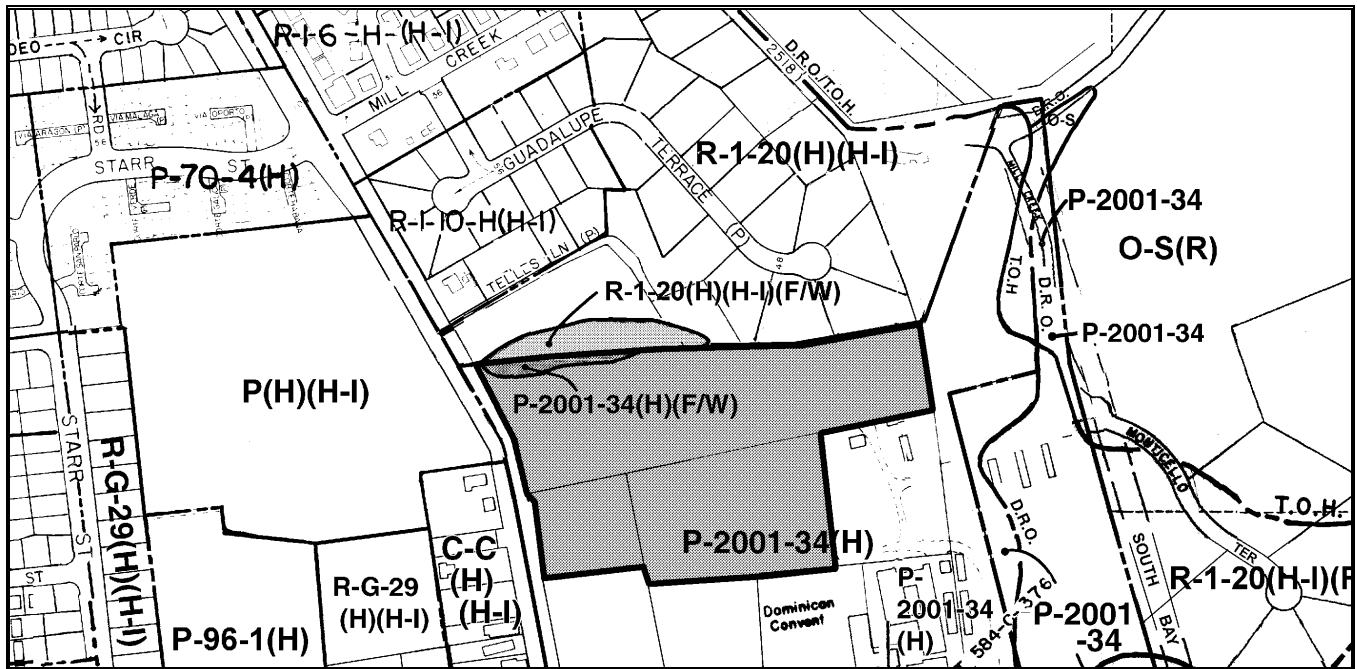
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- 1. Hold public hearing.
- 2. Recommend that the City Council find that the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is evidence the proposed project could have potential for an adverse effect on wildlife resources, but that mitigation measures are proposed which would reduce that potential to a less than significant level.
- 3. Recommend that the City Council approve Mitigated Negative Declaration and Mitigation Monitoring Plan and find these reflect the independent judgment of the City of Fremont.
- 4. Recommend that the City Council find that the Planned District Major Amendment (PLN2003-00165) is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Natural Resources Chapters as enumerated within the staff report.
- 5. Recommend that the City Council approve the Planned District Major Amendment (PLN2003-00165), as per Exhibit "A" (site plan, floor plans, elevations, landscape, grading and private street plan), and find that it fulfills the applicable requirements set forth in the Fremont Municipal Code; and further recommend that the City Council find that the requested deviations

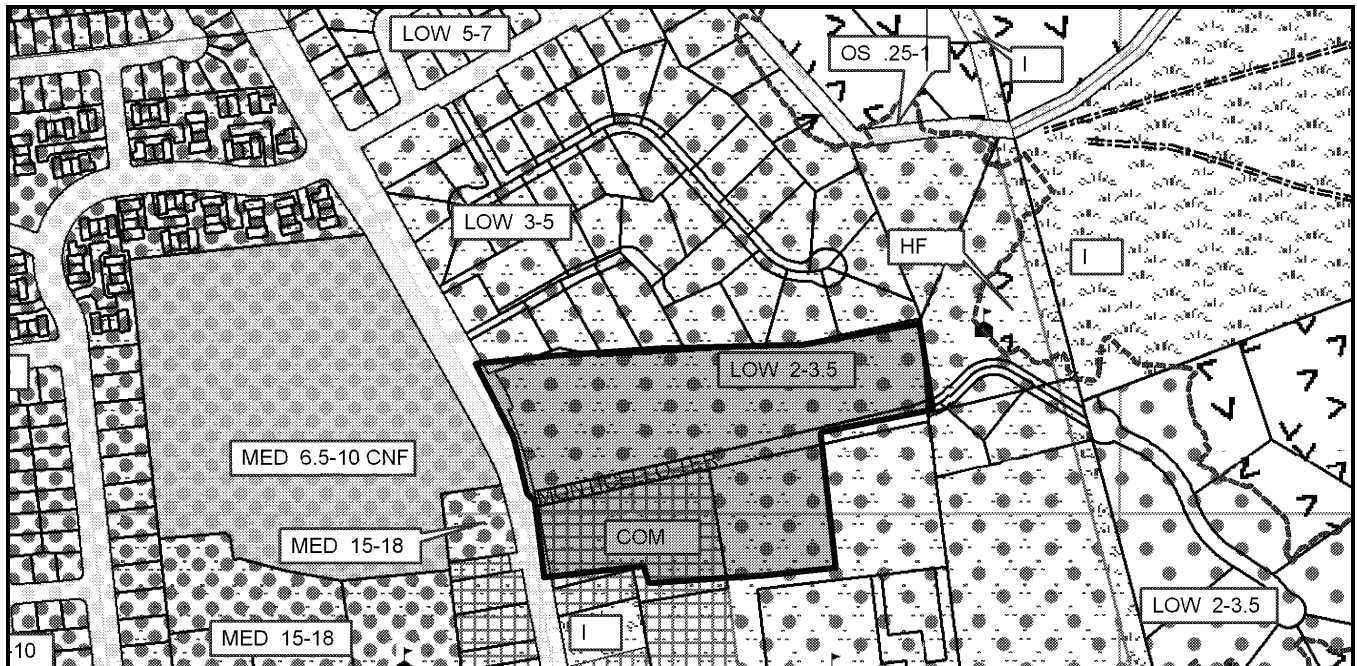
from the City's (H-I) zoning standards and height requirements are justified for the reasons set forth in the staff report.

6. Recommend to the City Council the preliminary and precise site plan for Planned District as shown on Exhibit "A" (site plan, floor plans, elevations, landscape, grading and private street) and Exhibit "E" (material color and sample board) for PLN2003-00165 be approved, based upon the findings contained in this report and subject to the conditions of approval set forth in Exhibit "B" & "C".
7. Recommend that the City Council find that the removal of six Landmark Trees (four Canary Island Palm and two Olives), the relocation of four trees that are part of the Landmark Olive tree group, and the relocation of four trees that are part of the Landmark Canary Island Palm group (at St. Joseph's Terrace) and the relocation of four trees that are part of the Landmark Canary Island Palm group at Mission Creek, (which are also Primary Historic Resource Trees) will not fundamentally alter the character of each such group of trees because each group maintains its original visual impact, significance as a group, and similar coverage on the site.
8. Recommend that the City Council find that three Sycamore Trees (#163, #164, and #166) meet criteria for designation of Landmark status as identified in Section 4-5112 of the Fremont Municipal Code, and, following a public hearing, adopt a Resolution to add the three Sycamore (*Plantanus racemosa*) trees to the City Landmark Tree List.
9. Recommend that the City Council find that one Avocado Tree (#184) meets the criteria for designation of Landmark status as identified in Section 4-5112 of the Fremont Municipal Code, and, following a public hearing, adopt a Resolution to add the Avocado (*Persea americana*) tree to the City Landmark Tree List.

**Existing Zoning**  
Shaded Area represents the Project Site



**Existing General Plan**



**EXHIBIT “B”  
PLN2003-00165  
(Planned District Major Amendment for Site Plan and Architectural Approval)  
St. Joseph’s Church**

**Findings:**

The findings below are made on the basis of information provided at the public hearing and contained in the staff report to the Planning Commission dated February 23, 2006, incorporated herein.

1. Find that the proposed project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Natural Resources and Land Use Chapters as enumerated within the staff report.
2. Find that the proposed project is in conformance with the standards and policies of the *Statement of Principles*, as governed by Mission San Jose (East) Planned District (**P-2001-34**), and the *Design Guidelines and regulations for the Mission San Jose Historic Overlay District*, and that based on the Site Plan and Architectural Approval process conducted, the exceptions granted to the Hillside Combining District requirements pertaining to fill, wall heights and building height are warranted for the reasons mentioned in the staff report.
3. Find that the proposed project described in the application is suitable and adequate because it is sufficient in size and is designed to be compatible in scale and appearance with the existing Mission San Jose historical character while not replicating or competing with the existing Mission.
4. Find that the proposed project would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because adequate ingress and egress points are proposed with one major pedestrian connection from Mission Boulevard to the Church’s plaza area and through the site interior.

**Conditions of Approval**

**General Conditions (Must be satisfied on an on-going basis—Pre-, during-, and post-construction.)**

1. Approval of PLN 2003-00165 for an 18,077 square foot (850 seat) shall conform to Exhibit "A" (Site Plan, Elevations, Floor Plans, Roof Plan, Preliminary Landscape Plan, Preliminary Grading Plan). The proposed site plan, elevations, and floor plans for the Church shall substantially conform to the plans submitted for this application, except as modified herein. This approval includes the future siting of the new rectory. The applicant will be required to submit a separate HARB application for the architectural review of the proposed rectory and garage.
2. Minor modifications to the approved building designs and siting, elevations and colors may be made, subject to review and approval of the Planning Director or his/her designee if such modifications are in keeping with the architectural statement of the original approval. However,

the Planning Director shall retain the authority to determine the level of review required (i.e., depending on the severity of the modification, the project may be referred to HARB for review and approval).

3. If the Planning Director finds evidence that conditions of approval have not been fulfilled or that the use or uses has or have resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Planning Director may refer the planned district major amendment to HARB and Planning Commission for review. If, upon such review, the Commission finds that any of the results above have occurred, the Planning Commission may modify, add conditions, or revoke the approval.
4. The proposed project shall also comply with all companion conditions of approval relating to the Preliminary Grading Plan and Private Street (Exhibit C). All plans shall be designed to be in compliance with applicable federal, state and local building and fire code requirements.
5. Plans shall be submitted to the Development Organization (D.O.) for review and approval to insure conformance with these conditions herein, as well as with relevant codes, policies, and other requirements of the Fremont Municipal Code.
6. Security and safety lighting will be conforming to the City Security Ordinance and regulations.
7. The structure and required exiting for egress must comply with all local, state and federal building and fire code requirements.
8. The structure shall have an automatic fire extinguishing system subject to the review and approval of the Fremont Fire Marshall through the Development Organization review process.
9. The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
10. The applicant or successor in interest shall conform to the conditions of approval herein and all other applicable ordinances of the Fremont Municipal Code.
11. **The mitigations measures below shall be implemented at pre-, during-, and/or post-construction intervals, as listed below.**

**Air Quality – To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:**

**Mitigation Measure AIR-1:** During construction, the applicant shall require its construction contractor(s) to implement the following measures required as part of BAAQMD's basic and

enhanced dust control procedures for sites larger than four acres. The following Basic Control Measures shall be implemented:

- a. Water all active construction areas at least twice daily.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging area at construction sites.
- e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

The following Enhanced Control Measures shall be implemented during project construction because the site is greater than four acres in area:

- f. All "Basic" control measures listed above.
- g. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).
- h. Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- i. Limit traffic speeds on unpaved roads to 15 miles per hour.
- j. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- k. Replant vegetation in disturbed areas as quickly as possible.

**Biological Resources** – To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:

**Mitigation Measure BIO-1:** Avoid impacts to California red-legged frog by conducting protocol-level surveys prior to construction. If found to be present, keep frogs out of construction area with exclusion fencing and conduct employee education program for construction workers.

**Mitigation Measure BIO-2:** Avoid impacts to burrowing owls by conducting preconstruction surveys. If occupied burrowing owl habitat is detected on or adjacent to the project site, measures to avoid, minimize, or mitigate impacts to burrowing owls shall be incorporated into the project.

**Mitigation Measure BIO-3:** Avoid impacts to nesting raptors and other special status birds by conducting preconstruction biological surveys and coordinate with USFWS and CDFG (as appropriate) for avoidance procedures. A qualified biologist shall survey the site for nesting raptors and other special status wildlife species within 30 days prior to any ground-disturbing activity if construction activities would occur during the breeding season (February 1 to August 31). Results of the surveys shall be forwarded to the USFWS and CDFG (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These may include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance.

**Mitigation Measure BIO-4:** Avoid impacts to bats through preconstruction surveys and implementation of avoidance measures acceptable to the CDFG.

**Mitigation Measure BIO-5:** Avoid impacts to the riparian corridor during construction by placement of a safety fence along the northern edge of the project construction area with all construction activities prohibited beyond this barrier.

**Mitigation Measure BIO-6:** Mitigate for impacts to the riparian corridor buffer zone by development and implementation of a riparian habitat enhancement and monitoring plan for the stretch of Mission Creek riparian corridor in the project area. The plan and its implementation must meet the approval of the City and the California Department of Fish and Game.

The implementation of a creek enhancement mitigation would be documented in a riparian habitat enhancement and monitoring plan, which would contain, at a minimum, the following sections:

- a. Site preparation;
- b. Exotic plant removal;
- c. Monitoring and follow-up of exotic plant removal;
- d. Planting plan based on reference site;
- e. Native planting materials and plant installation;
- f. Installation of systems necessary for planting establishment (e.g., drip irrigation system, herbivore protection tubes);
- g. Maintenance;
- h. Long-term monitoring needs (possible long-term funding for monitoring); and
- i. Success criteria.

**Mitigation Measure BIO-7:** Avoid impacts to the wetlands during construction by protective measures contained in Mitigation Measure BIO-5.

**Mitigation Measure BIO-8:** Permits would be obtained from the City for removal of protected trees or authorization for protected tree removal will be granted by the City as part of a development approval. Measures necessary to take in obtaining approval from the City would include:

- a. For each tree removed planting of a “24 inch box replacement tree of a species and in a location approved by the person or entity imposing mitigation requirements under the [Tree Preservation Ordinance]” (Section 4-5107). These would presumably be of the same or similar species to the native trees and the trees characteristic of the Planned District that are removed.
- b. Follow the “Standard Tree Preservation Notes for Demolition Plans, Grading Plans, and Planting Plans” in the City of Fremont Landscape Development Requirements and Policies. The requirements apply to protection of existing trees that will be preserved or relocated. Requirements include:



- c. Installation of protection measures before demolition or construction begins,
- d. Installation of a six-foot tall chain link fencing at or outside of the drip-line of preserved trees; no grading or storage of construction materials or vehicles within the fenced area;
- e. No passage of construction vehicles/machinery between preserved trees with canopies within 10 feet of touching;
- f. Presence of a certified arborist, approved by the City, if removal of existing roots or branch pruning is required and for relocation of existing trees;
- g. Specific measures to reduce impacts to individual trees presented in the “Tree Preservation Guidelines” of the HortScience tree report will be followed.

**Cultural Resources – To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:**

**Mitigation Measure CULTURAL-1:** The applicant and/or its contractor(s) shall retain the Carriage House and its immediate surrounding landscape. If the Carriage House is ever rehabilitated it shall maintain its historical integrity by adhering to the Secretary of the Interior’s Standards for Rehabilitation.

**Mitigation Measure CULTURAL-2: The applicant and/or its contractor(s) shall avoid damage to the wall foundation located between Mill Street and Monticello Terrace.**

The City of Fremont shall ensure that the project avoids damage to or destruction of the wall foundation, a feature of CA-Ala-1, located between Mill Street and Monticello Terrace. Avoidance of the wall foundation has been incorporated into the project description. However if project plan change or if previously unidentified segments of the wall are discovered during construction activities, the City of Fremont shall require limited, non-destructive, archaeological excavation to expose the wall so that the exact extent of the wall can be identified. Once the exact extent of the wall is identified, the project shall be designed to avoid impacts on extant wall segments.

**Mitigation Measure CULTURAL-3: The applicant and/or its contractor(s) shall conduct archaeological monitoring at the location of buried building foundations at the southwest corner of the ball field and avoid intact wall segments.**

A qualified archaeologist shall monitor all ground-disturbing activities within 50 feet of the recorded location of buried building foundations located at the southwest corner of the ball field on the project site. If buried foundation segments are exposed, construction activities shall avoid all disturbances to those segments. The archaeological monitor shall document any previously unidentified foundation segments or other features that are exposed.

**Mitigation Measure CULTURAL-4: The applicant and/or its contractor(s) shall avoid impacts at archaeological site CA-Ala-420 by placement of protective cover.**

Archaeological site CA-Ala-420 shall be protected from all ground-disturbing activities such as grading, trenching, excavation, use of heavy equipment, and other sources of project-related disturbance. All intact portions of the site shall be capped with soil fill prior to construction of project facilities. The City of Fremont shall require the project proponent to consult with a qualified archaeologist to mark the known site boundaries that will be capped. Fill material shall be placed on the site in a manner that avoids all ground disturbance on the site. That is, the engineering requirements for either road or structural facilities shall take into account, at the design phase, how much fill material would adequately buffer the area between the facility and the archaeological resource in order to avoid any impact to the site deposits. Any below-grade requirements, e.g., sewer systems, basements, and/or electrical conduit, for the facility shall be incorporated into the depth requirements for buffering the archaeological site. If avoidance of the site deposits is not feasible due to design or engineering constraints, full data-recovery of the site shall be conducted prior to any excavation or soil disturbance at the site (see **Mitigation Measure CULTURAL-4**). A qualified archaeologist shall monitor the placement of fill on archaeological site CA-Ala-420 and shall have the authority to stop work if the monitor determines that intact portions of the site are being subjected to disturbance. Work shall resume when appropriate measures to avoid disturbance are identified at the discretion of the archaeological monitor. The applicant shall provide the City of Fremont with a construction schedule that includes allowances for work stoppages resulting from archaeological discoveries during construction. The schedule shall demonstrate that sufficient time has been included during project grading and trenching to assure that work can be stopped in the area of the discovery until a qualified archaeologist can reasonably determine that significant or potentially significant archaeological deposits have been adequately identified, evaluated, protected and/or mitigated as appropriate.

**Mitigation Measure CULTURAL-5: The applicant and/or its contractor(s) shall conduct archaeological monitoring of ground-disturbing activities and stop work if cultural resources are discovered.**

All ground-disturbing activities associated with project preparation, construction, and completion shall be subjected monitored by a qualified archaeologist. The level of monitoring shall be determined by the archaeologist based on perceived sensitivity of specific areas, prior disturbance, and proximity to known cultural resources. Monitoring may consist of intensive continuous monitoring or intermittent monitoring, at the discretion of the archaeologist. If potentially significant cultural resources are discovered during ground-disturbing activities, either by the archaeological monitor or by construction staff, work shall be halted in that area until the archaeologist can assess the significance of the find, and, if necessary, develop appropriate treatment measures in consultation with the City of Fremont and other appropriate agencies and individuals. If the City of Fremont, in consultation with the archeological monitor, determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, the City of Fremont shall require Saint Josephs Church to:

- a. Re-design the project to avoid any adverse effect on the significant archeological resource; or,
- b. Implement an archeological data recovery program (ADRP) (unless the archaeologist determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible). If the circumstances warrant an

archeological data recovery program, an ADRP shall be conducted in accordance with the Guidelines for Archaeological Research Design (California Office of Historic Preservation 1991). The project archaeologist and the City of Fremont shall meet and consult to determine the scope of the ADRP. The archaeologist shall prepare a draft ADRP that shall be submitted to the City of Fremont for review and approval. The ADRP shall identify how the proposed data recovery program would preserve the significant information the archeological resource is expected to contain. That is, the ADRP shall identify the scientific/historical research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

**Mitigation Measure CULTURAL-6: The applicant and/or its contractor(s) shall comply with state laws pertaining to the discovery of human remains.**

If human remains of Native American origin are discovered during project construction, it would be necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Pub. Res. Code Sec. 5097). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

- a. The Alameda County Coroner has been informed and has determined that no investigation of the cause of death is required; and
- b. if the remains are of Native American origin,
  1. The coroner shall contact the Native American Heritage Commission within 24 hours.
  2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.

**Mitigation Measure CULTURAL-7: The applicant and/or its contractor(s) shall conduct cultural resources awareness training.**

All construction personnel and supervisors shall be required to attend a brief cultural resources awareness training program. The cultural resources awareness training shall familiarize personnel with the types of cultural resources that could be encountered, explain why cultural resources are important, describe the procedures that shall be followed if cultural resources are discovered during construction, explain the responsibility of construction personnel to stop work if cultural resources are discovered, and describe the role and authority of archaeological and Native American monitors.

**Mitigation Measure CULTURAL-8: The applicant and/or its contractor(s) shall prepare a Cultural Resources Management Plan.**

Because there is a high likelihood that previously unknown cultural resources may exist within the project area and because known cultural resources could be impacted in unanticipated ways, a cultural resources management plan shall be prepared that specifies methods and requirements for archaeological monitoring; roles and authority of archaeological monitors; identification of areas where pre-construction excavation shall be conducted to determine if buried cultural

resources are present; detailed procedures to be followed in the event of the discovery of cultural resources during either pre-construction excavation or during project construction; procedures for the evaluation and treatment of features of the Mission (CA-Ala-1) that may be discovered; reporting and documentation requirements; and the disposition of recovered cultural material, including human remains. The management plan shall also provide a detailed guide for implementation of each of the Cultural Resources Mitigation Measures.

**Mitigation Measure CULTURAL-9: The applicant and/or its contractor(s) shall prepare an Archaeological Monitoring Report.**

Following the completion of all ground-disturbing activities associated with the proposed project, an archaeological monitoring report shall be prepared that documents the monitoring methods that were used, locations and dates of monitoring, results of monitoring and any actions taken, documentation of any archaeological remains that were discovered during construction, the disposition of any artifacts or other archaeological material that may have been collected, and any recommendations that may be warranted. The monitoring report will be submitted to the City of Fremont for review and approval.

**Mitigation Measure CULTURAL-10: The applicant and/or its contractor(s) Avoid Site CAAla- 419.**

Archaeological site CA-Ala-419, which is located outside of the project site, shall be avoided by all project-related activities, including the use of the area for biological or other mitigation requirements. The City of Fremont shall review off-site mitigation areas to ensure that archaeological site CA-Ala-419 will be avoided. The on-site archaeologist (see Mitigation Measure Cultural-4) shall cordon the site prior to construction operations in the vicinity of CAAla-419 in order to identify the area as sensitive for archaeological resources.

**Mitigation Measure CULTURAL-11: The applicant and/or its contractor(s) shall stop work if paleontological remains are discovered.**

If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified paleontologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City of Fremont.

**Geology & Soils – To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:**

**Mitigation Measure GEO-1:** The applicant shall retain a California-registered civil engineer or certified engineering geologist to prepare a site-specific geotechnical report. The report shall evaluate the potential geologic hazards at the site including liquefaction, and provide recommendations to mitigate the hazard. The evaluation shall be in accordance with applicable City ordinances and policies and consistent with the most recent version of the California Building Code. Recommendations made by this report shall be incorporated in the project. The final seismic considerations for the site shall be submitted to and approved of by the City of Fremont prior to the commencement of the project.

**Hazards and Hazardous Materials – To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:**

**Mitigation Measure HAZ-1:** Suspected PCB-containing materials shall be identified prior to demolition activities, and if present, shall be removed and be disposed of by a licensed transportation and disposal facility in Class I hazardous waste landfill cells.

**Mitigation Measure HAZ-2:** Prior to demolition activities, the structures shall receive an ACM survey conducted by a licensed contractor. If present, then all ACM shall be removed and disposed of by a licensed Asbestos contractor in accordance with all applicable laws and regulations.

**Mitigation Measure HAZ-3:** The applicant and/or its contractor(s) shall perform a predemolition LBP survey prior to demolition of existing structures. Abatement of identified or suspected LBP shall occur prior to demolition or construction activities that would disturb those materials. The applicant shall implement a lead-based paint abatement plan, which shall include the following components:

- a. A Certified Project Designer shall develop an abatement specification.
- b. A site Health and Safety Plan, as needed.
- c. Containment of all work areas to prohibit off-site migration of paint chip debris.
- d. Removal of all peeling and stratified lead-based paint on building surfaces and on nonbuilding surfaces to the degree necessary to safely and properly complete demolition activities per the recommendations of the survey. The demolition contractor shall be responsible for properly containing and disposing of intact lead-based paint on all equipment to be cut and/or removed during the demolition.
- e. Appropriately remove paint chips by vacuum or other approved method.
- f. Collection, segregation, and profiling waste for disposal determination.
- g. Appropriate disposal of all hazardous and non-hazardous waste.

**Hydrology and Water Quality – To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:**

**Mitigation Measure HYDRO-1:** To help minimize the amount of pollutants entering the storm drain system, the applicant and/or its contractor(s) shall implement source control measures on project roadways and parking areas that shall include, but are not necessarily limited to, regular street sweeping by mechanized equipment, proper clean-up of soil debris following landscape work or small scale construction, placement of adequate trash receptacles, regular trash collection, and the application of absorbent material on oil and fuel leaks from automobiles. Additionally, litter and debris that may accumulate on the project site shall be regularly collected and properly disposed.

**Mitigation Measure HYDRO-2:** The project shall use Integrated Pest Management techniques (methods that minimize the use of potentially hazardous chemicals for landscape pest control) to minimize the use of anti-fungal and anti-aphid and mite sprays, as recommended by the Alameda

Countywide Clean Water Program. Only landscape chemicals approved by the U.S. Environmental Protection Agency (USEPA) shall be used at the site. The handling, storage, and application of potentially hazardous chemicals shall take place in accordance with all applicable laws and regulations. All landscaped areas shall be contoured so that runoff is collected and filtered prior to discharge.

**Land use - To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:**

**Mitigation Measure BIO-5:** Avoid impacts to the riparian corridor during construction by placement of a safety fence along the northern edge of the project construction area with all construction activities prohibited beyond this barrier.

**Noise – To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:**

**Mitigation Measure NOISE-1:** The project applicant shall require its contractors to muffle all equipment used for the project and to maintain it in good operating condition. All internal combustion engine-driven equipment shall be fitted with intake and exhaust mufflers that are in good condition. Additionally, construction activity at the project site would be limited to the hours of 7:00 am to 6:00 pm Monday through Friday and 9:00 am to 6:00 pm on Saturdays. No construction activities would be permitted on Sundays or holidays. The City and/or its contractors shall post signs at the construction site that include permitted construction days and hours, a day and evening contact number for the job site and a day and evening contact number in event of problems.

**Transportation: To mitigate the identified impacts, the following mitigation measures will be incorporated into the project:**

**Mitigation Measure TRANS-1:** The project applicant shall continue to use the City owned lot across Mission Boulevard for off-street parking.

### **Prior to Issuance of Building Permits**

#### ***Planning Division Requirements:***

1. Applicant shall submit appropriate plans and documents to City's Development Organization for review to insure conformance with conditions approved under this Major Amendment, Planned District conditions, and other relevant codes, policies and requirements of the Fremont Municipal Code. Prior to issuance of a building permit, all Development Impact Fees assessed shall be paid in full.
2. All utility and fire appurtenances, meters and risers shall be concealed or screened from view by materials of a design and composition compatible with the architectural treatment of the project.

3. The applicant shall work with PG&E on the locations of all underground transformer vaults. To the degree feasible, transformer vaults should be located in inconspicuous areas on the project site.
4. All proposed hard-surfaces, e.g., concrete and interlocking pavers are subject to review and approval of Development Organization Staff.
5. Signage will subject to the review and approval of Development Organization staff.
6. The internal driveway designated drop-off zones for the church and school shall be marked with signs / pavement markings that make vehicles aware of pedestrian and loading activities. The signs shall be compatible with the historical surroundings and will be subject to review and approval of the Development Organization staff.
7. A circulation diagram should be provided to guardians of students who attend the school that shows recommended approaches and drop-off / pick-up zones.
8. If signs are proposed, building sign permits shall be obtained, subject to the review and approval of the City's Plans and Permits Section.
9. All lighting associated with the project area shall be subject to staff review and approval during the Development Organization review process, and shall be of a pedestrian scale along the walkways. The developer shall submit a lighting plan for illumination of the buildings and driveways. The type of lighting fixtures, their heights, intensity and direction shall be clearly indicated. Exterior lighting shall be diffused or concealed in such a way as to prevent the illumination of adjoining properties or the creation of objectionable visual impacts on other properties or streets.
10. The parking configurations and dimensions shall conform to the City's standards and ordinances and shall be reviewed as part of the Development Organization review process.
11. All mechanical equipment (i.e. air conditioning units or similar) shall be screened from view from adjacent public and private rights-of-way, on-site parking, and neighboring residential properties.
12. Final building design, colors and materials shall be consistent with Exhibit "A" (Site Plan & Elevations) and Exhibit "E" (Color and Material Sample Board), subject to final staff review and approval during Development Organization process.
13. The applicant shall work with staff on defining architectural details and materials of the proposed stained glass, handrails, fire pit, and meditation garden.

**Conditions 14-17 were recommended by HARB during the February 2, 2006 meeting:**

14. An effort be made to further subdue the proposed church by using either different color or material for the roof, as well as use a subdued color for the walls in comparison with the mission.
15. A plan be developed for signage to be used throughout the site in recognition of the landscape to identify the significance of the plants and to provide an opportunity for the community to understand the historic significance of the plants.
16. An update be provided, as an informational item, to HARB concerning the riparian corridor enhancement and monitoring plan.
17. Updates be provided to the Board as the project moved forward.

*Landscaping Department Requirements:*

1. The disposition of existing trees on site shall be per Exhibit A, Tree Protection Transplanting & Removal Plan, Sheet L-2.
2. The repaving and realignment of St. Joseph Terrace shall be engineered in such a way as to minimize the impact on the existing row of olive trees. The Fire Marshall has confirmed that the roadway width may be reduced to 20' clear (presently shown as 24'). The precise location of curb and clear width of roadway shall be reviewed during Development Organization Review.
3. During Development Organization Review incorporate any relevant findings provided by the Consulting Arborist to preserve the palm trees and olive trees along St. Joseph Terrace. This may include adopting a pier and grade beam design for the planter/retaining walls (for the palm trees) and concrete curbs (for the olive trees). The planter detail should include critical dimensions such as the minimum distance between the back of wall and trunk; width of wall; and depth and size of footing.
4. The sequence of site work shall be organized so that tree transplant and protection work is completed prior to the start of any demolition or grading work. At the Applicant's expense, the City shall retain the services of a Consulting Arborist who is well experienced with relocating palm trees to work with the Contractor to direct and manage this portion of the work.
5. With the help of the Consulting Arborist, the Applicant shall prepare a Tree Plan to be submitted to Development Organization Review that will include the identification of staging and holding areas for trees that are awaiting relocation, as well as specifications for their care and eventual transplant operation. To the extent possible, the Tree Plan shall try and avoid the holding and storing of plants to be relocated, the goal being to relocate the trees without this interim step.
6. The Consulting Arborist shall also be retained during construction to oversee and supervise the transplanting of palms and other work that will involve root pruning of trees that are to be preserved.



7. Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
  - a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
  - b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
  - c) Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.
8. All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail LSD-5 City Standard Street Tree Clearances. In order to install all the trees shown on the Landscape Plan, utilities may require relocation subject to staff approval during Development Organization Review.
9. Landscape plans shall be submitted to Development Organization for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, and (3) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
  - a) An underground irrigation plan.
  - b) A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
  - c) Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate to the project.
10. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. Current copy of the LDRP available at the Engineering Counter shall prevail.

***Environmental Services Department Requirements:***

1. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
2. All recycling and waste collection areas are required to be screened from adjacent properties and public rights of way (FMC Section 8-22155). The trash enclosure must be built to screen the containers from public view and to insure the containers are on a concrete pad
3. Construction and demolition debris management: Recycling of construction and demolition debris is an important environmental concern to the City of Fremont in meeting the City's goal of 75% waste diversion by 2010 (Fremont Commercial/ Industrial Recycling Plan, adopted April

1999). This development will require the applicant to file a Project Waste Handling Plan and follow-up documentation, since it will generate a large amount of debris, i.e. asphaltic concrete, that can be recycled, including organic material/wood. This material may be recycled through any recycling company licensed to do business in Fremont, and recycling may cost less than disposing of the material as municipal solid waste.

4. The City of Fremont Waste Handling & Recycling Requirements document includes a **Project Waste Management Plan** that must be completed by the applicant and returned to the Environmental Services Division before any demolition or construction takes place. After the project is complete, the applicant must document actual salvage and diversion by filling in and returning the **Waste Disposal & Diversion Report** to Environmental Services. C & D material may be recycled through any recycling company licensed to do business in Fremont.

***Engineering Department Requirements:***

1. The project shall conform with Exhibit "A" (Site Plan) and all conditions of approval set forth herein.
2. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
3. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owner shall enter into a maintenance agreement for the long-term operation and maintenance of on-site stormwater treatment measures. The agreement shall run with the land and be recorded.
4. The developer shall obtain an encroachment permit for all work within the City right-of-way, Mission Boulevard. The encroachment permit shall be issued prior to or concurrent with the building permit for the site.
5. Street improvement plans shall be provided for the median construction, signing, and striping work within Mission Boulevard. Improvement plans shall be subject to review and approval of the City Engineer.
6. The developer shall submit the streetlight plan and joint trench plan with the Development Organization "first plan review" for site improvements and building permit. The final streetlight plan and joint trench plan shall be completed and approved prior to issuance of building permits.
7. The developer shall request P.G. & E. to commence with the design of the utility underground work for the proposed development after the approval of the Planned District amendment.
8. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
9. All new utility service connections, including electrical and communications, shall be installed underground within appropriate public service or public utility easements.

10. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
11. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
12. The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads and cleaning of all storm drain inlets.
13. Roof drains shall discharge and drain away from the building foundation to an unpaved area or to a stormwater treatment measure wherever practicable.
14. The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
15. All on-site storm drains are to be cleaned prior to building occupancy and also be cleaned each year immediately before the beginning of the rainy season (October 15). The City of Fremont may require additional cleaning.
16. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
17. The developer and project civil engineer shall work with staff to incorporate, into the design, additional storm water best management practices (BMPs) to treat storm water runoff before it is discharged into the public storm drain system. Examples of potential storm water BMPs include bio-swales, micro-detention ponds, and permeable pavement. Details of the storm water BMPs shall be included with the preliminary grading plan application.

***Building Department Requirements:***

1. All improvements to the project structure and site necessary for compliance with local, state and federal building and fire code requirements as well as any improvements required by the City in order to address public safety must be satisfied prior to release of building occupancy for this use.

***Fire Department Requirements:***

1. Provide fire flow information for site. Contact Jose Rodriguez with the Alameda County Water District at 510-668-4419 to obtain information. It is imperative that the fire flow information be

submitted to the fire department for review prior to approval of land use application. If the fire flow is substandard for this project, development may be impacted.

2. The applicant shall install a N.F.P.A. 13 fire sprinkler and NFPA 72 fire alarm system complying with local amendments.
3. Separate permit is required for the underground fire service, fire sprinkler and fire alarm system.
4. Project to comply with local ordinances 2484 & 2485 for development in the High Hazard Fire Area.
5. The Fire Department driveway access shall have a minimum 20 foot unobstructed linear width. These driveways/access roads shall be designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for surface type, distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigation's shall/may be required in addition to those listed. (CFC Sec. 902.2 as amended).
6. The applicant shall provide a 20 ft wide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed.
7. The applicant shall provide the fire hydrant required fire flow on site prior to construction or storage of combustible materials. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.
8. The applicant shall have a key box (Knox brand) located outside of buildings/gates and provide keys to the Fire Department so they may gain access. Applications can be obtained at Fire Administration office, 3300 Capital Ave, Fremont.
9. Address must always be visible from Public Street. Provide site map at driveway entrance.

#### ***Hazardous Materials Unit Requirements***

1. The applicant shall comply with the provisions of the permits required from any state or regional agencies, including, but not limited to, the Bay Area Air Quality Management District (BAAQMD), Regional Water Quality Control Board (RWQCB), Union Sanitary District's (USD) POTW and the Alameda County Department of Environmental Health.
2. The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.

### ***Police Department Requirements***

1. An exterior lighting plan for the exterior entry and applicable parking area, including specifications of existing or proposed fixtures, shall be submitted to and approved by the City's Plans and Permits Section prior to the issuance of a building permit.

### ***Payment of City Fees***

1. The project shall be subject to all citywide development impact fees. These fees may include, but are not limited to, park dedication in-lieu fee, fees for fire protection, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance. An impact fee credit for the existing rectory will be provided.

### ***During Construction Conditions (Conditions that must be satisfied during construction.)***

1. A professional engineer, registered in the State of California, shall be retained to prepare the final grading plan. Upon completion of the grading, a letter shall be submitted to the Development Organization that the as-built grading is in compliance with the approved grading plan.
2. Prior to the inspection of the roof sheathing, the project manager or supervising general contractor shall contact the Development Organization at (510) 494-4561 for an interim inspection by Planning Division staff of the structure to ensure that the construction is consistent with the approved architecture and building design.
3. Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:

Monday-Friday, 7 a.m. to 7 p.m.

Saturday & Holiday, 9 a.m. to 6 p.m.

Sunday, no construction activity allowed

4. The transport of construction materials and equipment will be limited to off-peak traffic periods.
5. Compliance with all conditions listed above under "General Conditions" relating to during construction' mitigation measures.

### ***Final Occupancy Conditions (Must be satisfied prior to occupancy.)***

1. A professional engineer registered in the State of California shall be retained to prepare a final grading plan, and upon the completion of the grading submit to the Development Organization a statement that the as-built grading conditions do not deviate from the approved plan by more than one foot of vertical elevation, subject to the review and approval of staff prior to the issuance of occupancy permits for each structure.

2. The project architect shall submit a letter to the City certifying that the buildings have been constructed in conformance with the approved architectural plans, subject to the review and approval of the Development Organization.
3. The project landscape architect shall submit a letter to the City certifying that the on-site and streetscape (ROW) landscaping have been constructed in conformance with the approved landscape and irrigation plan, subject to the review and approval of the Development Organization.
4. Compliance with all conditions listed above under "General Conditions" relating to 'post-construction' mitigation measures (e.g., erosion control).

**End of Planned District Conditions**

**Exhibit "C"**  
**PLN2003-00165**  
**(Preliminary Grading Plan and Private Street)**

**FINDINGS:**

The findings below are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated February 23, 2006, incorporated herein by reference:

- (a) The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance, except where needed to mitigate archaeological resources.
- (b) The proposed project described in the application will not result in geologic or topographic instability on or near the site. A peer reviewed geotechnical evaluation of the site will be required prior to the issuance of a building permit and the applicant will be required to implement any recommendations for the reduction of potential landslides as well as modifications to buildings for improved stability.
- (c) The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The applicant is required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
- (d) The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per official maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
- (e) The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.
- (f) The most logical development of the land requires private street access because the physical character of the project is more amenable to the less intense right of way required of a private street.
- (g) The development of the land is well defined because the design of the proposed improvements are in conformance with the City of Fremont's applicable codes and policies, except where exceptions to the Hill Area standards have been specifically approved.

## **PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:**

1. The project shall conform with Exhibit "A" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Planned District Major Amendment (PLN2003-00165).
2. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
3. Approval of this Preliminary Grading Plan shall terminate 24 months from the date of the approval by the Planning Commission.
4. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
5. Unless otherwise noted on Exhibit "B" & "C", all retaining walls shall be limited to a maximum height of three feet. All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure treated wood retaining walls may be allowed for retaining walls 12-inches or less in height.
6. All cut and fill slopes shall be graded to a maximum slope of three horizontal to one vertical (3:1) unless as otherwise noted on Exhibit "A" Preliminary Grading Plan.
7. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer or Alameda County Flood Control and Water Conservation District. An erosion and sediment control plan shall be included as part of the grading plans.
8. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
9. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
10. Prior to issuance of any permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
11. The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections, prepared by a qualified soils engineer registered by the State of California.



12. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
13. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
14. The project storm drain design shall be subject to review and approval of both the City Engineer and the Alameda County Flood Control and Water Conservation District. The project storm drain system shall be designed such that there is no net increase in flood hazards downstream of the project.
15. The applicant may be allowed grading deviation up to a maximum of two feet (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission, subject to determination by the City Engineer.
16. The Project Geotechnical Engineer shall be retained to review the final foundation and earthwork plans and specifications. The Project Geotechnical Engineer shall approve the grading and street improvement plans prior to City approval and issuance of grading or building permits.

**PRIVATE STREET CONDITIONS:**

1. The private streets shall conform with Exhibit "A", attached hereto and made a part hereof and all conditions of approval of Planned District Major Amendment P-2003-165 (Exhibit "A").
2. Exhibit "F" is a resolution, prepared by the applicant and the other property owners, supporting the relocation of the existing private street. The existing property owners who currently have access off of Monticello Terrace will be required to sign quit claims relinquishing their access right over the existing road.
3. This Private Street (PLN2003-00165) is being conditionally approved based on the accuracy of the information shown on Exhibit "A" and submitted with the Private Street application. If any of the information is shown to be inaccurate subsequent to approval of the Private Street by the City, such inaccuracy may be cause for invalidating this approval.
4. Pursuant to FMC Section 8-1510, the development policy for private vehicular access ways and private street standards shall be observed.
5. The improvement plans for the private street shall be subject to review and approval by utility agencies and companies, including but not limited to, the Alameda County Water District and the Union Sanitary District.
6. The connection between the private streets and the public street is to be by a City standard driveway.
7. A Private Street and a Public Utility Easement (PUE) are to be established over the entire private street right-of-way. The PUE dedication statement to recite that the PUE is available for, but not

limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical and communication facilities.

8. Access considerations for the on-site circulation system require space to be reserved for the movement of fire-fighting and emergency vehicles for the protection of both private property and the public. Dedication of emergency vehicle access easements (EVAE) on the final map over the private street right-of-way will be required. The easement geometry shall be subject to the approval of the City Engineer.
9. Fire hydrants are to be located along the private street as determined by the Fremont Fire Department.
10. A reciprocal easement and road maintenance covenant, or other mechanism acceptable to the City of Fremont, shall be in place to provide for the private street access for each property owner that has access via Monticello Terrace. The maintenance covenant shall be recorded on the title of each property using the private street for access and shall include the following:
  - a. Maintenance of the pavement and facilities in the private street which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the property owners.
  - b. Payment of the water and private street lighting (maintenance and energy) bills.
  - c. Maintenance, repair, replacement and removal of blockages in all building sewers. Maintenance of the building sewers includes repair of any trench failures and/or trench surface material failures.
  - d. Maintenance and "knock-down" repair of fire hydrants and water facilities along the private street is to be done by the utility agency at the expense of the property owners. The property owners are to be responsible for repainting any fire hydrants along the private street.
  - e. Private street grading and drainage shall be done according to public street standards, subject to review and approval by the City Engineer prior to building permit approval. The private street underground storm drain system shall meet public street standards.
11. Pursuant to FMC Section 8-1522 and 8-3107, the developer is to agree to improve within one year of building permit issuance, the private street within the project. No permanent improvement work is to commence until improvement plans and profiles have been approved by the City Engineer. Improvements are to be installed to permanent line and grade in accordance with the City's improvement standards and to the satisfaction of the City Engineer. The minimum improvements that the developer is normally required to construct or agree to construct prior to acceptance and approval of the building permit by the City are as set forth in the Street Right-of-ways and Improvement Ordinance and City Development Policy for Private Streets and Private Vehicle Access ways. Improvements to be constructed include:
  - a. Curb and gutter

- b. Driveways
  - c. Street paving
  - d. Private Street monuments
  - e. Electroliers (wired underground)
  - f. Drainage facilities
  - g. Signs
  - h. Fire hydrants
12. The private street improvement plans shall include a signing and striping plan with details of the required traffic controls along the private street. Required controls include, but are not limited to: installation of reflective pavement markers through the S-curve section on the centerline of the roadway; advance curve warning and advisory speed signs prior to the S-curve; and “fire lane” signs.
13. The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a thirty-year pavement design life. In no case shall the traffic index be less than 5.5. Asphalt concrete surfacing to be treated with a seal coat of the type and amount required by the City Engineer. Pavement design sections shall be subject to approval of the City Engineer.
14. Safety lighting is to be provided on the private street. Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide an average maintained foot-candle level of 0.12.
15. A signpost, to which is attached a sign having an area of at least fifteen inches by twenty-one inches, is to be installed at or near the private street entrance. The name of the private street is to be placed on this sign in clearly legible four-inch letters. The sign is to have painted, in at least one-inch letters, "Private Property. Not dedicated for public use."
16. St. Joseph Terrace and Monticello Terrace shall be posted for total parking prohibition as indicated on Exhibit "A", subject to review and approval by the City Engineer.
17. Approval of Private Street (PLN2003-00165) shall become effective upon issuance of building permits for the project.

**End of Preliminary Grading Plan and Private Street conditions**